ADJOURNMENT MOTION.

RE DELAY IN PUBLICATION OF LIST OF TEXT-BOOKS.

Mr. S. Krishna Pillai handed over, to the President, notice of a motion for the adjournment of the business of the House.

PRESIDENT: Mr. Krishna Pillai has asked for leave to move for the adjournment of the business of this House for discussion of the consequences of the delay made by Government in the publication of the list of text-books to be prescribed for the next school year, in spite of the fact that the expert committee, specially appointed by Government for the purpose is reported to have submitted its recommendations days ago. The member states that the matter is one affecting the whole State and is of urgent public importance.

There are two reasons for which I cannot allow this motion. One is that it is not a *specific* matter of *recent* occurrence; and the other is that the matter is at present under the consideration of Government. Therefore, I cannot allow it in the public interests.

Legislation.

THE TRAVANCORE TOWN-PLANNING BILL.

PRESIDENT: The business before the House is the discussion on the Town-Planning Bill. Mr. Thanu Pillai has moved an amendment to clause 44 to the effect that, in line 1, the word "*when*" occurring before the words "*Our Government*" should be deleted that the words *may with the consent of*" be substituted for the words "*after consulting*", and that in line 3, the words" "*and when they so decide*" should be inserted between the words "*board*" and "*they*" the amendment has been seconded, and it is now before the House.

MR. E. V. KRISHNA PILLAI (*Kottarakara cum Kunnattur*): Sir,.....

MR. RAMA VARMA RAJA (*Edavagai*): Sir.....

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, Mr. Rama Varma Raja seconded the amendment yesterday. He had no time to speak then. He may be allowed to speak now.

PRESIDENT: Do you wish to speak now, Mr. Raja?

MR. RAMA VARMA RAJA (*Edavaga*): Yes, Sir.

PRESIDENT: Mr. Raja is now in possession of the House.

MR. RAMA VARMA RAJA (*Edavagai*): സർ, മി: താണുപിള്ള ഇവിടെ അവതരിപ്പിച്ച ഭേഗതിയെ പിൻ താങ്ങുന്നതിനു എന്നെ പ്രേരിപ്പിച്ചതു ക്ലാസ്സ് 44-ൽ പറഞ്ഞിരിക്കുന്നസംഗതിയാണ്. ടൌൺപ്ലാ

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നിങ്ങ് ആവശ്യത്തിനായി ഒരുട്രസ്റ്റ് മുനിസിപ്പാലിറ്റിയുടെ സമ്മത ത്തോടുകൂടിയും സമ്മതത്തോടുകൂടാതേയും നിമ്മിക്കാമെന്നു പറയുന്നുണ്ട്, ഒരു മുനിസിപ്പാലിറ്റി ആവശ്യമില്ലടൌൺപ്ലാനിങ്ങ് സാദ്ധ്യവുമല്ല എ ന്നു പറഞ്ഞു് തള്ളുന്ന അവസരത്തിൽ ഗവണ്മെൻറു തന്നെ ഒരു ട്രസ്റ്റ് ഫ്ാറം ചെയ്തു ജോലി നടത്തിക്കൊള്ളാമെന്നു പറയുന്ന പക്ഷം എനിക്ക തിൽ ആക്ഷേപം പറയാൻ ഇല്ല എന്നാൽ ഇതിൽ വിസമ്മതമുള്ള മുനിസിപ്പൽ പ്രസിഡൻറിനെയും കൌൺസിലിനെയും കൊണ്ടുതന്നെ ഇതു നടത്തിക്കണമെന്നും അതിൽ ഉണ്ടാകുന്ന സകലചെലവുകള ളും ട്രസ്റ്റ് വീഴ്ചയാകുന്നപക്ഷം കൌൺസിൽ വഹിക്കേണ്ടതാണെന്നും വരുമ്പോൾ പല വിധത്തിലുള്ള തക്കേടും ഉണ്ടാകുമെന്നു ഒരു മുനിസി പ്പൽ പ്രസിഡൻറിൻെറ നിലയിൽ എനിക്കിവിടെ പ്രസ്താവിക്കുവാനു ണ്ടു്. ഒരു ടൌണിൻെറ ഭരണം മുഴുവനും ഒരു മുനിസിപ്പൽ കൌൺ സിലിനെ ഗവൺമെൻറുഏല്പിച്ചിരിക്കുന്നതു് ആടൌണിലുള്ള സകല കാര്യങ്ങളും അവർ ശരിയായി നിവ്വഹിച്ചുകൊള്ളുമെന്നുള്ള പൂർണ്ണബോ ദ്ധ്യത്തോടുകൂടിയാണു്. അങ്ങിനെയിരിക്കുന്ന അവസരത്തിലാണു് ഗവ ണ്മെൻറു വേറെ വല്ല നിർബന്ധത്താലൊമറ്റൊ ടൌൺ പ്ലാനിങ്ങ് ന ടത്തണമെന്നു കൌൺസിലിനോടു അഭിപ്രായപ്പെടുന്നതു്. അപ്പോൾ പണത്തിൻെറ ദൌർലഭ്യം കൊണ്ടോ അല്ലെങ്കിൽ ജനങ്ങളെ ബുദ്ധിമുട്ടി ച്ചുഅവരിൽ നിന്നും പണം ഈടാക്കുന്നതു വിഷമം കൊണ്ടോ തല്ക്കാ ലം ടൌൺപ്ലാനിങ്ങ് അവിടെ ആവശ്യമില്ലെന്നു മുനിസിപ്പൽ കൌൺ സിൽ പറയുമ്പോൾ അതു നടത്താനായി ഗവണ്മെൻറു തീർച്ചചെയ്തു ട്രസ്റ്റ്ഫ്ാറം ചെയ്തു നടത്തിക്കയും അതു വീഴ്ചവരുന്ന അവസരങ്ങളിൽ ആ മുനിസിപ്പാലിറ്റിയെ കൊണ്ടു തന്നെ നടത്തിക്കണമെന്നു നിശ്ചയി ക്കുകയും ചെയ്യുന്നതിൽ പലകുഴപ്പങ്ങളും ഉണ്ടാകാനിടയുണ്ടു്.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): അങ്ങിനെയാണെങ്കിൽ, ക 0 –ാം വകുപ്പിൽ ഗവണ്മെൻറിനു അധികാരം കൊടുത്തു കൂടാ എന്നു പറയാതിരിക്കുവാനുള്ള കാരണമെന്താണു്?

MR. RAMA VARMA RAJA (*Edavagai*): അതിൽ സ്കീം ആവശ്യ പ്പെടാമെന്നല്ലാതെ മുനിസിപ്പാലിറ്റി തന്നെ നടത്തണമെന്നു പറ ഞ്ഞിട്ടില്ല.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): അങ്ങിനെ ഗവൺമെൻറിനു ആവശ്യപ്പെടാമെന്നും അതനുസരിച്ചു കൌൺസിൽ സ്കീം തയ്യാറാക്കി അയക്കണമെന്നും ഇല്ലെ ?

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MR. RAMA VARMA RAJA (*Edavagai*): അതുമാത്രമെയൊള്ളൂ. അല്ലാതെ സ്കീം എക്സിക്യൂട്ട് ചെയ്യണമെന്നില്ല.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): മുനിസിപ്പാലിറ്റിക്കു സ്കീം നടത്താൻ മനസ്സില്ലെങ്കിൽ ഫ 0-ാം വകുപ്പിനെ തന്നെ മെമ്പർ എതിർക്കേണ്ടതായിരുന്നില്ലെ?

MR. RAMA VARMA RAJA (*Edavagai*): സ്കീം തയ്യാറാക്കിക്കഴിഞ്ഞതിനുശേഷമാണല്ലൊ, നടത്താമൊ പാടില്ലയൊ എന്നു തീച്ചപ്പെടുത്തുന്നതു്.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): ഫ ഒ,നുൻ ഈ വകുപ്പുകൾ മെമ്പർ വായിച്ചിട്ടുണ്ടോ?

MR. RAMA VARMA RAJA (*Edavagai*): ഉണ്ടു്.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): അവയനുസരിച്ചുമുനിസിപ്പാലിറ്റിക്കു യാതൊരുവിധമായ അഭിപ്രായവുമില്ലെങ്കിലും ഗവൺമെന്റിനു സ്വതന്ത്രമായി ഇതിൽ പ്രവൃത്തിക്കാമെന്നു കാണുന്നില്ലെ?

MR. RAMA VARMA RAJA (*Edavagai*): അതെല്ലാം സ്കീം തയ്യാറാക്കുന്നതിനെ സംബന്ധിച്ചാണു്. ഞാൻ ഇവിടെപറയുന്നതു് അതു നടപ്പിൽ വരുത്തുന്നതിനെക്കുറിച്ചാണു്.

MR. M. GOVINDAN (*Nominated*): സ്കീമിനെപ്പറ്റി ഡിക്ലറേഷൻ വന്നാൽ അതുകൌൺസിലിന്റെ ഒരു നിശ്ചയമായിട്ടു വിചാരിക്കേണ്ടതാകുന്നു എന്നു ഒരു വകുപ്പു മുൻപുപാസ്സാക്കീട്ടുള്ളതായി അറിയാമൊ?

MR. RAMA VARMA RAJA (*Edavagai*): അറിയാം. കൌൺസിലിൽ നിന്നും അതു തയ്യാറാക്കുമ്പോൾ അതു കൌൺസിലിന്റെ അനുമതിയോടുകൂടിയായിരിക്കും.

MR. M. GOVINDAN (*Nominated*): ഞാൻ ഫ 0 -ാമത്തെ ക്ലാസ് വായിക്കാം.

"Notwithstanding anything contained in Sections 7 to 9, Our Government may in respect of any municipality, after making such inquiry as they may deem necessary, by notification in Our Government Gazette require the Council to prepare, publish and submit for their sanction a draft scheme as respects any land in regard to which a town-planning scheme may be made.

Such requisition shall operate and be treated in every respect as a resolution passed by the Council under Section 7 and the Council shall proceed as if by a resolution the Council had decided to prepare the scheme."

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ഇൗറെകമിസിഷൻ ഒരു റസല്യൂഷന്റെ ഫലംവരുന്ന എന്നുവരുകിൽസ്കീമിനെപ്പററി ഒരുറസല്യൂഷൻ കൌൺസിലിൽ ഉണ്ടാക്കിയശേഷം അതു നടപ്പാക്കാതെയിരിക്കുന്നതിനുള്ള ഒരുവഴി കൌൺസിലിനു സ്വാധീനത്തമായിരിക്കണമെന്നാണൊ മെമ്പരുടെ അഭിപ്രായം?

MR. RAMA VARMA RAJA (*Edavagai*): അല്ല. കൌൺസിൽ സ്കീം തയ്യാറാക്കുന്നവെങ്കിലും അതു കൌൺസിലിൽനിന്നും തന്നെ നടത്തണമെന്നു വരുന്നില്ല.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): ക്ലാസ് നൻ (ഫ) അനുസരിച്ച സ്കീം തയ്യാറാക്കാൻ മാത്രമല്ല, മുനിസിപ്പാലിററിയുടെ അനുവാദമില്ലാതെ അതു എക്സിക്യൂട്ട ചെയ്യുവാൻക്രുടി ഗവൺമെൻറിനു കഴിയുമെന്നുള്ള പായിൻറ മെമ്പർ നോക്കിയിട്ടുണ്ടൊ?

MR. RAMA VARMA RAJA (*Edavagai*): ഗവണ്മെൻറു എക്സിക്യൂട്ട ചെയ്യുമെന്നു പറയുന്നില്ല.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): മുനിസിപ്പാലിററിയെക്കൊണ്ടു എക്സിക്യൂട്ട് ചെയ്യിക്കാൻ കഴിയുമെന്നുള്ള ഭാഗം ഓക്കുന്നുണ്ടൊ?

MR. RAMA VARMA RAJA (*Edavagai*): മനസ്സില്ലാത്ത മുനിസിപ്പൽ കൌൺസിലിനെക്കൊണ്ടു നടത്തിക്കാൻ ഗവണ്മെൻറിനു കഴിയുമെന്നു ഞാൻ മനസ്സിലാക്കുന്നുണ്ട്.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): അങ്ങിനെയുള്ള നൻ-ാം വകുപ്പിനെ മെമ്പർ വിട്ടതു എന്തുകൊണ്ടാണു?

MR. RAMA VARMA RAJA (*Edavagai*): മുനിസിപ്പാലിററിയുടെ അനുവാദത്തോടുകൂടി സ്കീം തയ്യാറാക്കുമ്പോൾ അതു് മുനിസിപ്പാലിററിയുടെ ശക്തിക്കുതക്കവണ്ണമുള്ള സ്കീമായിരിക്കയെഒള്ളു. ഇപ്പോഴത്തെ ക്ലാസിൽ പറയുന്നതു് ട്രസ്റ്റ്ഫ്ാറംചെയ്ത സ്കീം ഉണ്ടാക്കി നടപ്പിൽ വരുത്തുന്നകാര്യത്തെപ്പററിയാണു്.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): സ്കീം ഉണ്ടാക്കിയശേഷമല്ലെ ട്രസ്റ്റ് ഏർപ്പെടുത്തുന്നതു്?

MR. RAMA VARMA RAJA (*Edavagai*): ട്രസ്റ്റ് ഏർപ്പെടുത്തുന്നതു് മുനിസിപ്പാലിററിയുടെ സ്കീം നടത്താനല്ല.

MR. M. GOVINDAN (*Nominated*): ടൌൺ പ്ലാനിങ്ങ് സ്കീം നടത്തുന്നതിനാണു്.

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MR. RAMA VARMA RAJA (*Edavagai*) : അതല്ല ഞാൻ പറയുന്നതു്. മുനിസിപ്പാലിറ്റിയിൽനിന്നും നടത്താൻ കഴിയാത്ത കാര്യങ്ങളെ നടത്താനാണു് ട്രസ്റ്റ് ഉണ്ടാക്കുന്നതു്.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : ഫ.ഠ–ാം വകുപ്പനുസരിച്ചു മുനിസിപ്പാലിറ്റിയോടു ആവശ്യപ്പെട്ടാൽ സ്കീം ഉണ്ടാക്കി അയക്കണം. അതനുസരിച്ചു നടത്താനല്ലെ ട്രസ്റ്റ് ഫ്ാറം ചെയ്യുന്നതു്?

MR. RAMA VARMA RAJA (*Edavagai*) : മുനിസിപ്പാലിറ്റിയെക്കൊണ്ടു നടത്താൻ വയ്യാ എന്നു വരുന്ന അവസരത്തിലാണു് ട്രസ്റ്റ് ഫ്ാറം ചെയ്യുന്നതു്.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*) : എന്നു ഏതുവകുപ്പിലാണു് പറഞ്ഞിരിക്കുന്നതു്?

MR. RAMA VARMA RAJA (*Edavagai*) : ര ര–ാമത്തെ ക്ലാസിൽ പറയുന്നു.

> " When Our Government, after consulting the Municipal Council, decide that the interests of town-planning in any particular area will be best served by intrusting it to a special board, they may, by notification in Our Government Gazette, constitute such board to be called " The (name of town or other area) Town-Planning Trust" hereinafter referred to as "the trust", and thereupon the duty of carrying out the provisions of this Regulation in such local area shall, subject to the conditions and limitations hereinafter contained, be vested in the trust.

എന്നാണു്: അതായതു് മുനിസിപ്പാലിറ്റിയെകൊണ്ടു നടത്താൻ സാധിക്കാതെവരുമ്പോൾ ഒരു് സ്പെഷ്യൽ ബോർഡു ഏർപ്പെടുത്തണമെന്നാണു് ഇതിൽ പറയുന്നതു.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : 'മുനിസിപ്പാലിറ്റിയെക്കൊണ്ടു നടത്താൻ സാധിക്കാതെവരുമ്പോൾ' എന്നു് എവിടെ പറയുന്നു?

MR. RAMA VARMA RAJA (*Edavagai*) : ക്ലാസ് ര ര–ൽ തന്നെ പറയുന്നുണ്ടു്.

മുനിസിപ്പാലിറ്റിയെക്കൊണ്ടു നടത്താൻ സാധിക്കാതെവരുമ്പോഴാണു് ബോർഡിന്റെ ആവശ്യമുണ്ടാകുന്നതു.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): അങ്ങിനെ എവിടെ പറയുന്നു?

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MR. RAMA VARMA RAJA (*Edavagai*) : അങ്ങിനെയാണ് ഞാൻ ധരിച്ചത്. ലാ മെമ്പർ സംസാരിക്കുമ്പോൾ ആ സംശയം തീർക്കുമെന്നു ഞാൻ വിചാരിക്കുന്നു.

മദ്രാസിലുള്ള റഗുലേഷനിൽ ഇതുപോലെ പറഞ്ഞിട്ടുണ്ടെന്നൊരു വാദമുണ്ട്. എന്നാൽ അവിടെയുള്ള റഗുലേഷനെ അതുപോലെ പകർത്തണമെന്നോ ഇവിടെ നടപ്പിൽവരുത്തണമെന്നോ വിചാരിക്കേണ്ട ആവശ്യമില്ല. മദ്രാസിലെയും ഇവിടത്തെയും മുനിസിപ്പാലിറ്റികൾക്കു തമ്മിൽ വലിയ അന്തരമുണ്ട്. മദ്രാസിലെ മുനിസിപ്പാലിറ്റിയുടെ സംഘടന, നടത്തിപ്പ്; ഇവയെല്ലാം ഇവിടത്തേതിൽനിന്നും വ്യത്യാസപ്പെട്ടാണിരിക്കുന്നതു്.

അതിനാൽ മുനിസിപ്പാലിറ്റിക്കു നടത്താൻ സാധിക്കുകയില്ലെന്നു പറഞ്ഞാൽ ഗവണ്മെൻറതന്നെ നേരിട്ടു നടത്തണം എന്നു വരുമ്പോൾ മുനിസിപ്പാലിറ്റിക്കു ബുദ്ധിമുട്ടുണ്ടാവുകയില്ല. ആ സ്ഥിതിക്കു ഈ ഭേദഗതി ആവശ്യമാണെന്നു തോന്നുന്നതിനാൽ ഞാൻ ഇതിനെ പിൻതാങ്ങുന്നു.

MR. M. GOVINDAN (*Nominated*) : Clause 10 of the Bill runs as follows :—

"Notwithstanding anything contained in Sections 7 to 9, Our Government may in respect of any municipality, after making such inquiry as they may deem necessary, by notification in Our Government Gazette require the Council to prepare, publish and submit for their sanction a draft scheme as respects any land in regard to which a town-planning scheme may be made.

Such requisition shall operate and be treated in every respect as a resolution passed by the Council under Section 7 and the Council shall proceed as if by a resolution the council had decided to prepare the scheme."

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): Sir, I wish to go a step further and draw the attention of the House to clause 39 (2), which says.

"If Our Government are satisfied, after giving the Municipal Council or the responsible authority, as the case may be, an opportunity of explanation, that a Municipal Council or a responsible authority has failed to enforce effectively the observance of a scheme which has been finally sanctioned, or any provisions thereof, or to execute any works which under the scheme or this Regulation the Council or the responsible authority is required to execute Our Government may order the council or the responsible authority to do all things necessary for enforcing the observance of the scheme or any provisions thereof effectively, or for executing any works, which under the scheme or this Regulation, the Council or the responsible authority is required to execute."

MR. RAMA VARMA RAJA (*Edavagai*) : Clause 44, which is the subject of our present discussion says :

"Our Government after consulting the municipality.....decide that the interest of town-planning in any particular area will be best served by entrusting it to a special board.....".

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MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): Sir, I oppose the amendment for the main reason that it is defective, both in expression and in sense. The original provision that is sought to be amended runs thus:

"When Our Government, *after consulting the Municipal Council*, decide that the interests of the town-planning in any particular area will be best served by entrusting it to a special board.....".

As amended the clause would read thus:

"Our Government may *with the consent of the Municipal Council*, decide that the interests of town-planning in any particular area will be best served by entrusting it to a special board *and when they so decide they may*. ....."

The provision in the Bill is that the Government should be satisfied that there is sufficient ground for them to consider that the interests of town-planning in a particular area would be best served by the creation of a special board. They have to invite the opinion of the Municipal Council on the matter. They have to hear the views of the Municipal Council, weigh them and then come to a decision whether the creation of the special board, known as the '*trust*' is necessary or not.

MR. RAMA VARMA RAJA (*Edavagai*): എന്നു എഴുതിട പറഞ്ഞിരിക്കുന്നു.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): എന്നാണ് ഇതിനകത്തെ അർത്ഥം. This is the original provision. The whole thing, Sir, is so natural and is so very easily comprehensible. The Government have to be satisfied as to the necessity for the creation of a board. They have to consult the Municipal Council which should offer its criticisms in the matter. Then the Government have to weigh such criticisms and arrive at a conclusion. The amendment is that the Government may *with the consent of the Municipal council*, do it: not that the Government may decide one way or the other, but that they should decide in a particular way. What is the fun of giving the Government some power and then in the same provision telling them "you shall decide in a particular way". I cannot understand that. Either the decision should be left to Government or the power to decide should be withdrawn from them. There is no sense in providing that the Municipal Council or any other body can ask the Government to decide that the constitution of a trust would be necessary or desirable. If you can leave it to the Government to decide that question, why should you ask the Government to decide it in a particular way? To me, Sir, that is a very absurd proposition.

MR. A. THANU PILLAI (*Trivandrum*): What is the absurd proposition, please?

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): There is no meaning in giving complete discretion to a person to decide and saying "It is left to your decision; *but you must get the consent of somebody else* for arriving at that decision". Where is the discretion, then? The Government would be helpless in the matter if this

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amendment is carried. They would not be able to exercise the power conferred on them by the provision. The amendment says "Our Government may with the consent of....." ; and so it empowers the Government to do it.

MR. S. CHATTANATHA KARAYALAR (*Pattanapuram* cum *Shencotta*): Is it not possible that the Government *may not*?

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): The Government may or may not do it. The amendment says that the Government may, *with the consent* of the municipality, decide a thing *for themselves* in a particular way. That form, I submit, is very defective. Secondly, suppose the Government are not going to take any move in the matter. "Consent" by one person pre supposes an initial move from someone else. When I am to give consent, that presupposes that there is someone else to take the initiative in the matter. The superior voice sought to be granted to the municipality, by the mover of the amendment may be a very commendable idea in itself. But, that disappears when we interpret it as I have done. Even according to the amendment, the municipality can accord consent; they cannot take any initiative. A Municipal Council may find that a particular area requires town-planning and that the work would be best done by a special board. If they approach the Government with a request to constitute a trust, the Government may say: "Under the Regulation, you can only give your *consent* if *we* take the initiative. You cannot yourselves take the initiative in the matter."

MR. A. THANU PILLAI (*Trivandrum*): In case the amendment is that the municipality may decide and then move for the appointment of a trust, will it be acceptable to the member?

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): It will be more clear and it will bring out the idea that is sought to be introduced by the mover. I am now attacking the *wording* of the amendment. I may also say that I do not see eye to eye with the member, also in regard to his object in moving the amendment.

MR. A. THANU PILLAI (*Trivandrum*): Is the objection only to the *wording* of the amendment?

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): I object to the idea also; but I have not finished my criticism of the form of the amendment. I think Mr. Raja was under a very great misapprehension when he said that, under the Bill, the municipality was entirely helpless in the creation of this special board and that no reference need be made to it before the creation of the special board. If Mr. Raja had had the patience to read ten lines more in the Bill he would have seen that the power that is proposed to be appropriated is only very limited. The Government can appoint, only one-third of the members of the trust including the chairman. The rest is left to be elected, under Section 45, sub-section 1 (*b*), by the municipality and other local bodies. Two-thirds form a very appreciable majority. My submission is that there is absolutely nothing apparent in the provisions of the Bill to show that Government want to appropriate for themselves

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[Mr. E. V. Krishna Pillai].

any undue power in regard to the creation of these special boards known as '*trusts*'. The framer of this Bill thought that, ordinarily, a municipality may not be in a position to attend whole-heartedly to town-planning in any particular area. Therefore, for the distribution of labour and, for affording greater facilities, for greater attention being bestowed on town-planning, provision has been made for the creation of the board. It will be seen that as soon as a trust is created, all the powers contemplated in favour of the Municipal Council are sought to be given to the trust. I do not mean any disparagement to the existing municipalities or to those who are responsible for the municipal administration in the State. For facilitating work and also for getting the work done in the best way possible, it is fair that Government are allowed to have this power for themselves to the limited extent to which it is allowed by clause 44 of the Bill.

Mr. Raja raised another objection, *viz.*, that the trust is to hand over all its assets and liabilities to the municipality as soon as the work is over and that the municipality is to be held liable for all that. The trust only represents the municipality, and it exists only for the functions that have to be discharged by the municipality. So, it is only natural that the municipality should answer for all that is done by the trust. As observed by Mr. Asan and others, there is clause 10 which gives Government extraordinary powers. There is clause 12 (2), under which every scheme has to be submitted to Government. There are the provisos (2) and (3) to clause 12, under which, if a municipality does not resubmit the scheme, Government may pass their own orders. There is another clause which says that Government can make its own scheme for the municipality. Clause 12 (5) clearly says that the ultimate sanctioning authority is the Government. There is clause 13 (2), under which Government may vary or revoke a scheme. Clause 26 lays down that Government can appoint, of its own accord, an arbitrator. According to clause 29, the approval of Government is absolutely necessary or the diversion of funds known as separate funds, for the purpose of town-planning. Clauses 32 and 35 confer very wide powers upon Government. Clause 41 says that all matters provided here are to be left in the hands of the Government and that they can make rules.

MR. K. P. ABRAHAM (*Muvattupuzha* cum *Todupuzha*): May I know whether there is any provision whereby the Government can act in spite of the protest of the municipality.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): There is a provision like that. Ultimate powers are all with the Government under the preceding Sections. There is no use in our crying "Halt" late in the day. After all, Sir, under clause 44, the interference by Government is limited. Restraint, at the earliest opportunity and within the narrowest possible limits, in regard to the powers of Government should have been thought of when we were considering the preceding clauses. In view of the fact that all the preceding clauses have been allowed to stand, this clause which gives the Government

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only very limited powers, essential in the interests of town-planning, should be allowed to remain without any amendment. And, the amendment of the mover would not serve the purpose for which it is intended by the mover. On the other hand, it detracts the facility sought to be given by the Bill for carrying on the work of town-planning efficiently.

MR. K. NARAYANA PERUMAL NADAR (*Agastisvaram*): May I know whether the member subscribes to the opinion that the acute legal acumen of the Law Member is best illustrated in clause 44, and that, of all the clauses in the Bill, that clause is his masterpiece?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): Though I cannot raise myself to a white-heat of prophetic fury over this amendment, I cannot, I am sorry, accord my support to the amendment brought forward with the best of motives. I know why Mr. Thanu Pillai does not like the Government having the upper hand in deciding this question. When I asked him the question yesterday, why in the Madras Town-Planning Act such a provision has been allowed to be there, he told me that we must realise the fact that there town-planning and other allied subjects of local self-government are under a Minister responsible to the people, an elected representative of the people. Really, what the amendment wants to convey is that, because the Government is not here, responsible to the people, and because the municipality is a democratic body, the municipality should be given greater powers and that the powers of the Government must be limited. That seems to be the underlying idea of the mover in proposing the amendment. But, Sir, I think my friends who support the amendment should look at this question from a slightly different angle of vision. The most important question is whether we should have town-planning scheme or not, and if we are going to have it, who is to wield the power in the matter. When we were discussing Sections 9, 12, 39 and others under which the Government were empowered to formulate the schemes even if the Municipal Councils did not move in the matter, even if the Municipal Councils did not want town-planning schemes to be introduced, we felt that Government should step into the field and force the municipalities to do it. If the city fathers were not capable of realising the responsibilities of citizenship in some cases, even then, we provided that the Government should make them feel it. Honestly, that was the spirit with which we passed clause 10 which gives the Government the power to require the Council to formulate schemes for town-planning. We did concede the point that, even if the municipalities considered that town-planning was not in the interests of the people living within the municipalities, schemes might be introduced by the Government if they thought it necessary.

MR. RAMA VARMA RAJA (*Edavagai*): അവിടെയുള്ളവരും ജനപ്രതിനിധികളല്ലെ?

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MR. K. KUNJUKRISHNA PILLAI (*Quilon*) : അവിടത്തെ മെമ്പർമാർ നോക്കുന്നില്ല എന്നല്ല പറഞ്ഞത്. ഒരുപക്ഷേ നോക്കാതെ ഇരുന്നാലും ഗവണ്മെൻറ് തലിച്ച ടൗൺപ്ലാനിങ്ങ് നടത്തണമെന്നാണ് പറഞ്ഞത്. ഞാൻ മെമ്പർമാരെ ആക്ഷേപിച്ചതായിട്ട് തെറ്റിദ്ധരിക്കേണ്ടതാവശ്യമില്ല.

MR. RAMA VARMA RAJA (*Edavagai*): അങ്ങനെനോക്കാതെയിരിക്കാനുള്ള കാരണമെന്താണ്?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): അവർ നോക്കി ചെയ്യുമെന്നോ ചെയ്യാതിരിക്കുമെന്നോ ഞാൻ വാദിക്കുന്നില്ല. ഒരുപക്ഷേ ചെയ്യാതെയിരുന്നാലും ഗവണ്മെൻറ് ചെയ്യണമെന്നാണ് ഞാൻ പറയുന്നത്.

MR. RAMA VARMA RAJA (*Edavagai*); ജനങ്ങൾക്ക് ഉപദ്രവകരമായിട്ടുവരുന്ന ഒരു കാര്യം മുനിസിപ്പാലിറ്റി വേണ്ട എന്നുപറഞ്ഞശേഷം ഗവണ്മെൻറ് അതു എടുത്തു ചെയ്യുന്നതു നല്ലതാണൊ?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*) : ഇതൊരു ഹൈപ്പത്തെറ്റിക്കൽ കപ്സ്റ്റിനാണ്. അതിനു മറുപടി പറയണമെന്നു ഞാൻ വിചാരിക്കുന്നില്ല. ഈ ബില്ലിനെ സംബന്ധിച്ചേടത്തോളം ഒരുപക്ഷേ എന്തെങ്കിലും മുനിസിപ്പൽ കൌൺസിൽചെയ്തില്ലെങ്കിലും ഗവണ്മെൻറിനു ചെയ്യാനുള്ള അധികാരം ഉണ്ടായിരിക്കണമെന്നു നാം പറയുകതന്നെ വേണം.

MR. RAMA VARMA RAJA (*Edavagai*): ഗവണ്മെൻറിനു വേണമെന്നു തോന്നിയാൽ മുനിസിപ്പൽകൌൺസിലിനെ ഡിസാൽവുചെയ്തു പുത്തൻ മെമ്പേർസിനെ ആക്കരുതൊ?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): അങ്ങിനെയും ചെയ്യാം. ഇതുവരെ കഴിഞ്ഞ സെക്ഷൻസ് കൊണ്ടു നാം തീർച്ചപ്പെടുത്തിയതു അങ്ങിനെയല്ലല്ലൊ ?

I think it has been conceded by the passing of the clauses up to clause 44 that, even if a particular municipality did not, for reasons of its own, want to introduce a scheme, if the Government felt that such a scheme was necessary in a particular locality, that scheme might be introduced by them in spite of the municipality. After having conceded that, is it open to us not to allow the working of the scheme to be *carried out effectively* by Government? The whole Bill would become infructuous and useless if we do not implement the Government with the necessary power to carry out schemes which *we* have allowed them to introduce even against the opinion of the Municipal Councils if need be.

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As my friend, Mr. S. Krishna Pillai, has pointed out, we must look into the composition of the trust. The municipality, no doubt, consists of the representatives of the people; so also, the town-planning trust consists of the representatives of the people elected by the municipality. No doubt, it is an indirect method of election; but, for that matter, even the presidents of the municipalities are elected by the members of the municipalities and not by the people direct. If the representative character of the Municipal Presidents is not detracted by the method of indirect election, I do not see any reason why the trust, which is to consist of members mostly elected by the municipalities or similar popular bodies, can be said not to have the representative capacity of the municipalities. It is as much a democratic body as the Municipality.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): May I know whether he is opposing or supporting the amendment?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): I would request the member to listen to me. If he had been listening, he would have understood it; and he need not have asked me this question. I started my speech by saying that I was sorry I could not accord my support to the amendment. That means I oppose the amendment, and am supporting the Bill as it is.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): May I know whether there is not the presumption that I have been all along listening to him?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): I am sorry such a presumption is likely to be wrong in the case of the member.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): May I know whether the presumption is not in my favour?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): I do not wish to adjudicate upon that matter. On account of the fact that we want that, wherever necessary, the town-planning scheme should be introduced and worked out by the municipalities, and that in default, it should be made possible for the Government to work it out, and the fact that the trusts are to consist mostly of the representatives of popular institutions, I do not see my way to accord my support to the amendment. I may again draw the attention of my friend, Mr. Thanu Pillai, to clause 45 (3) which says:

"Our Government shall fix the strength of the trust, the number of trustees to be elected under clause (*b*) of sub-section (1), the local authorities by whom they shall be elected, the number of trustees to be appointed by Our Government under clause (*c*) of sub-section (1) and the number of trustees to be elected or nominated under sub-section (2) and the bodies or associations by whom they shall be elected or nominated: Provided that the number of trustees appointed by Our Government shall not exceed one-third of the sanctioned strength."

So, at the most, only one-third of the members will be nominated. The rest will be the elected representatives of popular bodies, so that a trust will be as much a representative body as any municipality. In these circumstances, I do not think there is any force in supporting this

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[Mr. K. Kunjukrishna Pillai.]

amendment which will give a handle to many of the municipalities not to make the working of the town-planning scheme possible if they so desire. With all respect for the representatives of the municipalities, I must say that whenever they have to part with power, as human beings, they will be very reluctant. The Government are reluctant to part with power; any corporate organisation will be. It means the loss of a good deal of patronage, and a large part of the amount collected.

MR E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): What town in Travancore, according to the member's experience, stands in the most urgent need for town-planning?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): Alleppey.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): Does the present composition of the Municipal Council of Alleppey inspire the member with any confidence that the interests of town-planning in any area in that town will be best served if they are left in the hands of that municipality as the same is constituted at present?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): The member knows it better than myself; I need not express an opinion upon that.

I think many of the municipalities will rise above this human failing, this love of power and patronage. It is just possible that some municipalities may find it difficult to surrender their power and patronage which they would otherwise have if they are allowed to have all these things under them. Some force, therefore, is necessary in some cases. We are agreed that the introduction of the town-planning scheme is necessary, and that it should be introduced at once, and not in 1115 or in any other auspicious year. We must grant that we must have the most effective machinery for the introduction of such schemes and therefore, Government must be implemented with this power. It is on purely practical considerations, because of an earnest desire for the introduction of the town-planning scheme in places where it is necessary, and because of the feeling that if we delay, the cost of town-planning will increase by leaps and bounds, I oppose the amendment that has been moved by my friend Mr. Thanu Pillai.

MR. P. S. MAHOMED (*Nominated*): സർ, മി. താണുപിള്ള യുടേ ഭേഗതിയെ ഞാൻ അനുകൂലിക്കുന്നു. ഏതു ജനപ്രതിനിധി സ്ഥാപനങ്ങളിലും കാരകുരു മനസാക്ഷിയും ഇല്ലാത്തയാളുകൾ കടന്നുകൂടുക എന്നുള്ളത് സംഭാവ്യമാണു്. അതുകൊണ്ടു് ആ സ്ഥാപനത്തിനു പൊതുവെ അയോഗ്യതഇല്ലാതെപോയി എന്നുവിചാരിക്കുവാൻപാടില്ല. പൊതുവെ ജനക്ഷേമകരമായ സംഗതികൾ നടത്തേണ്ടതായിവരുമ്പോൾ ഇങ്ങിനെയുള്ള സ്ഥാപനങ്ങളിൽ ഈ തരത്തിലുള്ള വ്യക്തികളെ പറ്റി ചിന്തിക്കേണ്ട ആവശ്യമില്ലാത്തതാകുന്നു. ഞാൻ മി. താണുപിള്ള ഇവിടെ ഹാജരാക്കീട്ടുള്ള ഭേഗതിയെ അനുകൂലിക്കുന്നതു ഗവണ്മെൻറു ഉത്തരവാദിത്വ

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ത്തോട്ടുകൂടി പ്രവൃത്തിക്കയില്ല എന്നുള്ള വിഷമത്തോട്ടുകൂടിയുമല്ല. ഗവണ്മെൻറിനു ഒരു ടൌണിൽ സാനിറേഷനും മറ്റും ഉണ്ടാക്കാനുള്ള സ്കീം ആവശ്യമാണെന്നു തോന്നി എന്നും. അതിനു ചില ചിലവുകൾക്കേണ്ടി സംഖ്യ ജനങ്ങളുടെ ധനസ്ഥിതിയനുസരിച്ചു ഭീമമാണെന്നു മുനിസിപ്പാലിറ്റിക്കു ബോധ്യപ്പെട്ടതുകൊണ്ടോ മറ്റോ മുനിസിപ്പാലിറ്റിക്കു അതു പെട്ടെന്നു നടപ്പാക്കാൻ പാടില്ലെന്നു തോന്നി എന്നും വരാം. അങ്ങിനെ വരുമ്പോൾ സ്കീം തയ്യാറാക്കുന്ന സംഗതിയിൽ മുനിസിപ്പാലിറ്റിയുടെ സമ്മതമില്ലാതെ ഗവണ്മെൻറു പ്രവർത്തിക്കുന്നതുകൊണ്ടു തരക്കേടില്ല. ഇതിലേക്കു നേരിട്ടുള്ള ചിലവു ഭീമമല്ലെന്നു കാണിക്കുന്നതിനു വേണ്ടി ഗവണ്മെൻറു തന്നെ മുനിസിപ്പാലിറ്റിയുടെ ഹിതത്തിനു വിരുദ്ധമായിട്ടാണെങ്കിലും ചെയ്യുകാണിക്കേണ്ടതാണ്.

MR. E. V. KRISHNA PILLAI (*Kottarakara cum Kunnattur*): സ്കീം എക്സിക്യൂട്ട് ചെയ്യാൻ ഗവണ്മെൻറിനധികാരമില്ലേ?

MR. P. S. MAHOMED (*Nominated*): ഇല്ല.

MR. E. V. KRISHNA PILLAI (*Kottarakara cum Kunnattur*): ക്ലാസ് നൻ (ഡ)-ൽ എന്തുപറയുന്നു?

MR. P. S. MAHOMED (*Nominated*): അതനുസരിച്ചു ഗവണ്മെൻറിനു തനിച്ചു എക്സിക്യൂട്ടുചെയ്യാൻ അധികാരമില്ല ഗവണ്മെൻറിനു വല്ലധികാരവും ഉണ്ടെങ്കിൽ അതു ഒരു ബോർഡ് ഉണ്ടാക്കുന്നതിനുമാത്രമാണുള്ളു. അങ്ങിനെ വരുമ്പോൾ പൊതുവെ മുനിസിപ്പാലിറ്റിക്കുള്ള അധികാരത്തിനു ഭംഗം വരുന്നു എന്നു വിചാരിക്കുന്നു. ഇതുനിമിത്തം ഒരു മുനിസിപ്പാലിറ്റിക്കു സാധിക്കുന്നതിനു വിഷമമുള്ളതായ ഒരു സംഗതിയിൽ ഗവണ്മെൻറു ആ മുനിസിപ്പാലിറ്റിയോടു സഹകരിച്ചു സംഗതി ഭംഗിയായി പ്രവൃത്തിച്ചാണു ചെയ്യുന്നതു.

MR. E. V. KRISHNA PILLAI (*Kottarakara cum Kunnattur*): ഒരു മുനിസിപ്പാലിറ്റി തയ്യാറാക്കിയ സ്കീം ആ മുനിസിപ്പാലിറ്റിയെക്കൊണ്ടു തന്നെ എക്സിക്യൂട്ട് ചെയ്യിക്കുന്നതിനു ഗവണ്മെൻറിനധികാരമുണ്ടോ?

MR. P. S. MAHOMED (*Nominated*): ഉണ്ട്. അങ്ങിനെ വരുമ്പോൾ ഒരുവർഷംകൊണ്ടു ചെയ്യാവുന്ന സംഗതി ആ മുനിസിപ്പാലിറ്റിയുടെ ധനസ്ഥിതിയനുസരിച്ചു പല വർഷങ്ങൾകൊണ്ടു ജനങ്ങളിൽ വലിയ നികുതിഭാരം ചുമത്താതെ ചെയ്തീർക്കാൻകഴിയും.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): ഒരു മുനിസിപ്പാലിറ്റി തയ്യാറാക്കിയ സ്കീം അനുസരിച്ചു പ്രവർത്തിക്കാ

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[Mr. A. S. Damodaran Asan.]

നോ പ്രവത്തിക്കുന്നതിനു സമ്മതംകൊടുക്കാനോ ഒരു മുനിസിപ്പാലിറ്റി തയ്യാറില്ലെങ്കിൽ ആ സ്കീം എങ്ങിനെ നടപ്പിൽവരും?

MR. P. S. MAHOMED (*Nominated*): ഒരു മുനിസിപ്പാലിറ്റി ചെയ്യണമെന്നു ഗവണ്മെൻറു നിശ്ചയിക്കുന്ന സ്കീം നല്ലതാണെന്നു മുനിസിപ്പാലിറ്റിക്കു ബോദ്ധ്യംവന്നശേഷവും അതു ചെയ്യാതിരിക്കുന്നുവെങ്കിൽ എന്റെ സ്നേഹിതൻ പറഞ്ഞപ്രകാരം അതിന്റെ കാൺസ്റ്റിറ്റ്യൂഷൻ തന്നെ മാറുന്നതിനു ഗവണ്മെൻറിനു അധികാരമുണ്ട്.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): അതു നല്ലതാണെന്നു മുനിസിപ്പാലിറ്റിക്കു ബോദ്ധ്യം വന്നില്ല; അവർ അതു ചെയ്യാൻ തയ്യാറുമില്ല. അങ്ങിനെവരുന്ന സന്ദർഭത്തിൽ അതു നടപ്പിൽവരുത്താൻ എന്താണു് വേണ്ടതു്?

MR. P. S. MAHOMED (*Nominated*): ഈ പ്രവൃത്തിയുടെ ചുമതല വഹിക്കേണ്ട മുനിസിപ്പാലിറ്റി അവസാനംവരെ വേണ്ടെന്നു പറഞ്ഞാൽ അവരുടെ ഹിതത്തിനു വിപരീതമായി ഗവണ്മെൻറു ഒരിക്കലും പ്രവത്തിക്കരുതു്.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): മുനിസിപ്പാലിറ്റി ആദ്യമെതന്നെ വേണ്ടെന്നു പറഞ്ഞാലോ?

MR. P. S. MAHOMED (*Nominated*): അതു നല്ലതാണെന്നു മുനിസിപ്പാലിറ്റിയെ ബോദ്ധ്യപ്പെടുത്താൻ ശ്രമിക്കണം.

MR. M. GOVINDAN (*Nominated*): മുനിസിപ്പൽറഗുലേഷൻ 90-ാം വകുപ്പനുസരിച്ചു സൂപ്പർസീഡ് ചെയ്യുവാനുള്ള ഒരധികാരമാണെല്ലോ ഗവണ്മെൻറിനുള്ളതു്. ആസ്ഥിതിക്കു സൂപ്പർസീഡ്ചെയ്യ പ്രവത്തിക്കുന്നതുകൊള്ളാമോ, അതല്ല, ഭിന്നാഭിപ്രായമുണ്ടെങ്കിലും ഗവണ്മെൻറിന്റെ യുക്തംപോലെ ഒരു ട്രസ്റ്റ് രൂപീകരിക്കുന്നതിനുള്ള അധികാരം കൊടുക്കുന്നതു കൊള്ളാമോ?

MR. P. S. MAHOMED (*Nominated*): മുനിസിപ്പാലിറ്റിയുടെമേൽ ഗവണ്മെൻറിനുള്ള അധികാരത്തെ സംബന്ധിച്ചിടത്തോളം ഈ അധികാരം ഗവണ്മെൻറു വച്ചുകൊണ്ടിരിക്കരുതെന്നും മുനിസിപ്പാലിറ്റിയും ജനങ്ങളും ഒന്നുപോലെ വാദിച്ചുകൊണ്ടിരിക്കുന്നുണ്ടു്. മുനിസിപ്പാലിറ്റിയിലുള്ള സംഗതികൾ മുഴുവനും സ്വാതന്ത്ര്യമായി പ്രവത്തിക്കാനുള്ള സൌകര്യം മുനിസിപ്പാലിറ്റിക്കു നൽകുകയാണു് വേണ്ടതെന്നുള്ള സംഗതി ജനങ്ങൾ ഏകോപിച്ചുകൂടി സംസ്കരിച്ചിട്ടുള്ള ഒരു വിഷയമാണു്.

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അതനുസരിച്ച വേണ്ട ഭേദഗതി ചെയ്യുന്നതിനു ഗവണ്മെൻറുഭാഗത്തുനിന്നുംതന്നെ മുമ്പോട്ടുവന്നിട്ടുള്ള ഈ അവസരത്തിൽ പഴയരീതിയിൽതന്നെ സകലതും ഗവണ്മെൻറു ചെയ്യുമെന്നുപറയുന്നതു ശരിയല്ല.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*) : മെമ്പർ ബില്ലിലെ നാൻ (ഡ)–ാംവകുപ്പു വായിച്ചിട്ടുണ്ടോ?

MR. P. S. MAHOMED (*Nominated*): ഞാനും മെംബറും ഒരുമിച്ചിരുന്നുതന്നെ വായിച്ചിട്ടുണ്ട്.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): രണ്ടാംവകുപ്പിന്റെ അർത്ഥം മനസ്സിലാക്കിയിട്ടുണ്ടോ?

MR. P. S. MAHOMED (*Nominated*) : മെമ്പറെപോലെതന്നെ ഞാനും അതിന്റെ അർത്ഥം മനസ്സിലാക്കീട്ടുണ്ട്.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*) : ആവകുപ്പിന്റെ അർത്ഥമെന്താണ്?

MR. P. S. MAHOMED (*Nominated*) : അതു മെംബർതന്നെ നോക്കിമനസ്സിലാക്കണം.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): രണ്ടാമതു ഉപവകുപ്പിൻപ്രകാരം ഗവണ്മെൻറിനു സകല അധികാരവും കൊടുക്കുന്നതു മെമ്പർക്കു സമ്മതമാണൊ?

MR. P. S. MAHOMED (*Nominated*): ആ അധികാരം ഗവണ്മെൻറു എടുക്കുന്നതിൽ വിരോധമില്ല.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*) : ആസ്ഥിതിക്കു ട്രസ്റ്റിനെ സംബന്ധിച്ച മെംബറുടെ അഭിപ്രായവ്യത്യാസത്തിന്റെ ആവശ്യമെന്താണ്?

MR. P. S. MAHOMED (*Nominated*): ഗവണ്മെൻറു ബഡ്ജറിൽ തുക കൊള്ളിച്ചും മറും വളരെ ആലോചിച്ചെ പ്രവർത്തിക്കയൊള്ളു. പണത്തിന്റെ സ്ഥിതിപോലെ ചിലവാക്കും. ഈ കൌൺസിലിൽതന്നെ പല സംഗതികൾക്കും സാമ്പത്തികനില അനുവദിക്കുന്നില്ലെന്നു ഗവണ്മെൻറുഭാഗത്തുനിന്നും പറയാറുണ്ടല്ലൊ.

MR. A. S. DAMODARAM ASAN (*Mavelikara* cum *Kartikapalli*): അങ്ങിനെ ഗവണ്മെൻറു പറയുമ്പോൾ അതുപോരാ സാധിച്ചുതരണമെന്നല്ലെ നമ്മൾ പറയാറുള്ളതു ?

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MR. P. S. MAHOMED (*Nominated*): പല സംഗതികളിലും ഗവണ്മെൻറങ്ങിനെ പറഞ്ഞാൽ ഉടനെ സാധിച്ചു കിട്ടണമെന്നു തോന്നാറില്ല.

ശരിയായ സ്ഥാനങ്ങളിൽ ഇരുന്നു പ്രവർത്തിക്കുന്നവർക്കു മാത്രമെ പണത്തിന്റെ വിഷമം അറിയാൻ തരമൊള്ളു. അവർക്കു മാത്രമെ പണത്തിന്റെ വിഷമത കാണാനും സാധിക്കുകയൊള്ളു. പണം ഉണ്ടാക്കുന്ന വിഷയത്തിലൊ പണം കടം വാങ്ങിയെങ്കിലും ചിലവുചെയ്യുശേഷം അതു തിരിയ്ക്കൊടുക്കുന്നവിഷയത്തിലൊ യാതൊരുത്തരവാദിത്വവുമില്ലാത്ത ഒരു ബാഡിയെ സൃഷ്ടിക്കരുതെന്നുള്ളതാണ് എന്റെ അഭിപ്രായ വ്യത്യാസം.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*) ഈ ബാഡിയെ സൃഷ്ടിക്കുന്നതാരാണ്?

MR. P. S. MAHOMED (*Nominated*): ഈ റഗ്ലേഷൻ.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*) ഈ റെഗ്ലേഷൻ ആരാണ് അധികാരംകൊടുക്കുന്നതു?

MR. P. S. MAHOMED (*Nominated*): ഗവണ്മെൻറാണ്. കടംവാങ്ങിക്കാ, മുനിസിപ്പൽ കാൺടിബ്യൂഷൻവാങ്ങിക്കാ, ഇതിനൊന്നിനും സൌകര്യവും ഉത്തരവാദിത്വമില്ലാത്ത ഒരു ബാഡിയെ ഈ ജോലി ഏല്പിക്കുന്നു.

MR. E. V. KRISHNA PILLAI (*Kottarakara cum Kunnattur*): ഗവണ്മെൻറിനു ഈ സൌകര്യമുണ്ടൊ?

MR. P. S. MAHOMED (*Nominated*): ഗവണ്മെൻറു പണം ആലോചിച്ചു ചിലവുചെയ്യുകയൊള്ളു.

MR. E. V. KRISHNA PILLAI (*Kottarakara cum Kunnattur*): സെക്ഷൻ 11 (2) അനുസരിച്ചു ചിലവുചെയ്യുന്നപണം മുനിസിപ്പാലിറ്റിയിൽ ചാർജ്ജുചെയ്യേണ്ടതാണെന്നറിയാമൊ?

MR. P. S. MAHOMED (*Nominated*): പണം ഉണ്ടാക്കുന്നതിനു പ്രയാസമില്ല. എന്നാൽ പണം ഉണ്ടാക്കുമ്പോൾ അതിലുള്ള വിഷമതകളെപ്പറ്റി ഗവണ്മെൻറു ഉദ്യോഗസ്ഥന്മാരോടു ആലോചിക്കും.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): ഗവണ്മെൻറുനേരിട്ടു പ്രവർത്തിക്കുന്നതിൽ മെമ്പർക്കു വിരോധമില്ല?

MR. P. S. MAHOMED (*Nominated*): അതായതു മുനിസിപ്പാലിറ്റിയുടെ സാമ്പത്തികനിലയനുസരിച്ചു ഗവണ്മെൻറു നേരിട്ടു പ്രവർത്തിക്കുന്നതിൽ ഞങ്ങൾക്കു വിരോധമില്ല.

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MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): ഈ ജോലി ഒരു ഗവണ്മെൻറുദ്യോഗസ്ഥനെ ഏല്പിക്കുന്നതാണ് നല്ലതെന്നാണ് മെമ്പർ വിചാരിക്കുന്നത് അല്ലെ?

MR. P. S. MAHOMED (*Nominated*): ബോർഡിനെക്കാളും ഭേദം ഗവണ്മെൻറുദ്യോഗസ്ഥനെ ഏല്പിക്കുകയാണ് നല്ലതെന്ന ഞങ്ങടം വിചാരിക്കുന്നു.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): മെമ്പർ "ഞങ്ങടം" എന്നുപറഞ്ഞത് ആരെ ഉദ്ദേശിച്ചാണ്?

MR. P. S. MAHOMED (*Nominated*): ഞാൻ മുനിസിപ്പാലിറ്റികളെ ഉദ്ദേശിച്ചാണ് പറഞ്ഞത്.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): അവരെ പ്രതിനിധീകരിയ്ക്കുന്നതിനു മെമ്പറെ അധികാരപ്പെടുത്തിയിട്ടുണ്ടോ?

MR. P. S. MAHOMED (*Nominated*): അതെ. ഇവിടെയുള്ള മുനിസിപ്പാലിറ്റിയോടു സംബന്ധപ്പെട്ടവക്കെല്ലാം എന്റെ അഭിപ്രായം തന്നെയാണുള്ളത്.

ആയതുകൊണ്ട് ഇങ്ങനെ ബോർഡിനു ഉത്തരവാദിത്വമില്ലാതിരിക്കുന്നിടത്തോളംകാലം ഈ ജോലിക്കുവേണ്ടി ഒരു ബോർഡു മുനിസിപ്പാലിറ്റിയുടെ സമ്മതം കൂടാതെ ക്രീയേറു ചെയ്യുന്നതു അനാവശ്യമാണ് എന്നാണ് എന്റെ അഭിപ്രായം.

MR. M. GOVINDAN (*Nominated*): എന്തു ക്രീയേഷനാണ്?

MR. P. S. MAHOMED (*Nominated*): സ്പെഷ്യൽ ബോർഡ്.

MR. M. GOVINDAN (*Nominated*): അതിലും ജനപ്രതിനിധികളില്ലെ?

MR. P. S. MAHOMED (*Nominated*): ഉണ്ട്. പക്ഷെ ആ സ്ഥാപനത്തിനു ഉത്തരവാദിത്വമില്ല. അവനവൻ ചെയ്യുന്ന പ്രവൃത്തിയുടെ ഉത്തരവാദിത്വം അവനവനുള്ളായിരിക്കേണ്ടതാണു.

MR. M. GOVINDAN (*Nominated*): ട്രസ്റ്റിന്റെ പ്രവൃത്തിതീരുന്നതുവരെ അവർ പുറപ്പെടുന്ന എല്ലാകാൺട്രാക്റ്റിലും ഉത്തരവാദിത്വമില്ലായിരുന്നുവെന്ന് എങ്ങനെ അറിയാം?

MR. P. S. MAHOMED (*Nominated*): അവക്കു ചിലവുചെയ്യുന്നതിനും കടംവാങ്ങുന്നതിനുമുള്ള ഉത്തരവാദിത്വമുണ്ട്. എന്നാൽ കടം വാങ്ങിയതു കൊടുത്തു തീക്കുന്നതിനുള്ള ഉത്തരവാദിത്വമില്ല. ഒരു വേല അവർ തുടങ്ങി പകുതിയാക്കിയിട്ടുന്നു എന്നു വിചാരിക്കുക. അവരുടെ ദുഷ്യം കൊണ്ടുതന്നെ അതു പൂർത്തിയാക്കാൻ സാധിക്കാതെവരും. അങ്ങിനെ വരുമ്പോൾ അവരെ പിരിച്ചുവിടാം. അതുവരെ ചെയ്തതിന്ന

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[Mr. P. S. Mahomed.]

തും, മേൽചെയ്യാനുള്ളതുമായ വേലകൾക്കു പിന്നെയും മുനിസിപ്പാലിറ്റി തന്നെ പണം ഉണ്ടാക്കണം; അതുപോലെതന്നെ വസ്തുക്കൾക്കു കാമ്പൻസേഷൻ കൊടുക്കണം; ഈ വേലകളിൽ വല്ലവക്കും നഷ്ടമുണ്ടെങ്കിൽ നഷ്ടപരിഹാരം കൊടുക്കണം; ഇതൊക്കെ മുനിസിപ്പാലിറ്റിയിൽനിന്നു തന്നെ വേണ്ടിയിരിക്കുന്നു.

MR. K. GOPALAKRISHNA PILLAI (*Parur*): ഈ ട്രസ്റ്റിലും മുനിസിപ്പാലിറ്റിയിലുള്ള ആളുകളില്ലേ?

MR. P. S. MAHOMED (*Nominated*): രണ്ടോ മൂന്നോ പേരെയൊള്ളൂ.

ഇങ്ങനെ വരുന്ന സന്ദർഭത്തിൽ മുനിസിപ്പാലിറ്റിക്കു പണം ഉണ്ടാക്കാതെ നിവർത്തിയില്ല എന്നു വരും. അതിനായി ഗവർണ്മെൻറിനോടു സങ്കടം പറയണം. ഇന്നു ഓരോ മുനിസിപ്പാലിറ്റികളും ജനങ്ങളുടെ സ്ഥിതിയനുസരിച്ചും സാമ്പത്തീക നിലയനുസരിച്ചും റഗുലേഷൻ പ്രകാരമുള്ള മുഴുവൻ സംഖ്യയും ഈടാക്കുന്നില്ല. കാരണം അതിൽ പല വിഷമതകളും ഉള്ളതാണു്. ഗവണ്മെൻറു് ആ കരങ്ങളെല്ലാംപിരിച്ചു കൊള്ളുവാൻ പറയും.

MR. M. GOVINDAN (*Nominated*): മുനിസിപ്പൽ റഗുലേഷൻ ഡ്രൻേജ് വകുപ്പിൽ ഒരു ഏറ്റവും പ്രധാനമായ സംഗതി ഗവണ്മെൻറിനുചെയ്യണമെന്നു തോന്നി മുനിസിപ്പാലിറ്റിയോടു് ആവശ്യപ്പെടുകയും മുനിസിപ്പാലിറ്റി അതു ചെയ്യാതിരിക്കയും ചെയ്യുന്ന വിഷയത്തിൽ ഗവണ്മെൻറിൽ നിന്നും ഒരുദ്യോഗസ്ഥനെ നിയമിച്ചു പണം ചിലവു ചെയ്തു ആ ചിലവു മുനിസിപ്പാലിറ്റിയോടു് ആവശ്യപ്പെടാമെന്നൊരു വ്യവസ്ഥയുണ്ടെന്നറിയാമൊ?

MR. P. S. MAHOMED (*Nominated*) : എനിക്കു നല്ലവണ്ണം അറിയാം.

MR. M. GOVINDAN (*Nominated*): അങ്ങിനെയിരിക്കുമ്പോൾ ഗവണ്മെൻറു കുറെ ജനപ്രതിനിധികളെക്കൊണ്ടു ചെയ്യിക്കുന്നതല്ല കുറേക്കൂടിനല്ലതു ?

MR. P. S. MAHOMED (*Nominated*) : ഗവണ്മെൻറു ഒരുദ്യോഗസ്ഥനെ കൊണ്ടു ചെയ്യിക്കുകയാണു് നല്ലതു. അയാളുടെ പ്രവൃത്തി ദുഷ്യത്താൽ ഉദ്യോഗം കൂടി നഷ്ടമായി പോകുമെന്നുള്ളതിനാൽ അയാൾ അതിൽ അശ്രദ്ധകാണിക്കുകയില്ല.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): ട്രസ്റ്റിലുള്ള മുനിസിപ്പാലിറ്റി പ്രതിനിധികൾ ശരിയായി പെരുമാറിയില്ലെങ്കിൽ അവർ തിരിച്ചു വരുമ്പോൾ നിങ്ങൾക്കു അവരോടു സമാധാനം ചോദിക്കരുതൊ?

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MR. P. S. MAHOMED (*Nominated*): ഒന്നു പ്രവർത്തിക്കുന്നതിനു മുമ്പു രൂപീകരിക്കുമ്പോൾ തന്നെ അതു ഉത്തരവാദിത്വത്തോടുകൂടിയായിരിക്കണം.

MR. JOSEPH KUNJU (*Changanachery* cum *Peermade*): ഒരു മുനിസിപ്പാലിറ്റിയുടെ തീരുമാനം ആ പട്ടണാതൃത്തിയിലുള്ള ജനങ്ങളുടെ അഭിപ്രായമായി ഗണിക്കരുതോ?

MR. P. S. MAHOMED (*Nominated*): അങ്ങിനെ തന്നെ ഗണിക്കണം.

ഇപ്രകാരം ഈ ബോർഡുപകൃതി ജോലിചെയ്തു നിറുത്തുന്നപക്ഷം അതു പൂർത്തിയാക്കാൻ മുനിസിപ്പാലിറ്റി നിർബന്ധിതരാകും. അപ്പോൾ അവർ ജനങ്ങളുടെ നികുതിഭാരം വർദ്ധിപ്പിപ്പാൻ തയ്യാറാകണം. എന്നാൽ മാത്രമെ മുനിസിപ്പാലിറ്റിക്കു നഷ്ടം കൂടാതെ കഴിക്കാൻ സാധിക്കുകയൊള്ളൂ.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): May I know whether all the Municipal Presidents in the State would support this view or oppose it?

MR. P. S. MAHOMED (*Nominated*): I am sure they would *support* it.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): May I know whether Mr. P. S. Mahomed is the President of a Municipality?

MR. P. S. MAHOMED (*Nominated*): Yes.

അതു കൊണ്ടു പ്രസിഡൻറിന്റെയോ മുനിസിപ്പാലിറ്റിയുടെയൊ അധികാരത്തിനു യാതൊരു ഭംഗവും വരുന്നില്ല. ഇന്നു തന്നെ ഓരോ സംഗതികൾക്കായി മുനിസിപ്പാലിറ്റിയിൽ നിന്നും സബ് കമ്മിറ്റികൾനിശ്ചയിച്ചു അവരെ കൊണ്ടു ആ സംഗതികൾ നടത്തിച്ചു വരുന്നുണ്ടു്. മുനിസിപ്പാലിറ്റി സബ് കമ്മിറ്റികൾ ഉണ്ടാക്കുന്നതിനു പകരം ഗവണ്മെൻറു അതു സൃഷ്ടിക്കുന്നു എന്നെയൊള്ളൂ. എന്നാൽ ഇതു മുനിസിപ്പാലിറ്റിയുടെ സമ്മതത്തോടുകൂടിയാണെങ്കിൽ വിഷമമുണ്ടാകാൻ തരമില്ല.

MR. K. GOPALAKRISHNA PILLAI (*Parur*): മുനിസിപ്പാലിറ്റിയുടെ സമ്മതമുണ്ടെങ്കിൽ എന്തു കൊണ്ടാണു് വിഷമം വരികയില്ല എന്നു പറഞ്ഞതു്?

MR. P. S. MAHOMED (*Nominated*): ജനങ്ങൾക്കുപദ്രവമില്ല എന്നു മുനിസിപ്പാലിറ്റിക്കുവിശ്വാസം വന്നാൽ മാത്രമെഅവർ സമ്മതംകൊടുക്കയുള്ളൂ. ടെണ്ണിന്റെ ഉണ്ണത്തെ മാത്രം നോക്കി ഗവണ്മെൻറിനു ചെയ്യാൻ സാധിക്കും. എന്നാൽ അതു പോരാ, ജനങ്ങളുടെ സുഖസൌകര്യാദികൾ കൂടി നോക്കണം.

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MR. K. GOPALAKRISHNA PILLAI (*Parur*): ഗവണ്മെൻറിന്റെ ജഡ്ജ്മെൻറ് അനുസരിച്ചുചെയ്താൽ തെറ്റുവരാം; മുൻസിപ്പാലിറ്റിയുടെ ജഡ്ജ്മെൻറനുസരിച്ചുചെയ്താൽ തെറ്റുവരികയില്ല അല്ലെ?

MR. P. S. MAHOMED (*Nominated*): ജനങ്ങളുടെ സാമ്പത്തികനില സുഖം മുതലായവയെകുറിച്ചുള്ള അറിവു മുനിസിപ്പാലിറ്റിക്കു കിട്ടുന്നതുപോലെ ഗവണ്മെൻറിനുകിട്ടാൻ സാധിക്കയില്ല.

MR. JOSEPH KUNJU (*Changanachery cum Peermade*): ജനങ്ങളുടെ ഹിതമനുസരിച്ചു ഭരണം നടത്തുന്ന ഒരു ഗവണ്മെൻറാണൊ നമുക്കുള്ളത്?

MR. P. S. MAHOMED (*Nominated*): ജനങ്ങളുടെ ഗുണത്തിനുവേണ്ടി കഴിയുന്നതും പ്രവർത്തിക്കണമെന്നു ആഗ്രഹിക്കുന്ന ഒരു ഗവണ്മെൻറാണു എന്നാണ് എന്റെ അഭിപ്രായം. അതുകൊണ്ടു ഈ ഭേദഗതി ആവശ്യമാണെന്നുള്ള അഭിപ്രായത്തോടുകൂടി ഞാൻ വിരമിച്ചുകൊള്ളുന്നു.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): Sir, I rise to oppose the amendment moved by my friend Mr. Thanu Pillai. When we accepted the principle of this Bill, it was admitted by the House that some scheme for town-planning was absolutely necessary, and that a law must be passed to enable the Government to prepare and carry out schemes for town-planning. The question now before the House is whether the constitution of special boards for the carrying out of town-planning scheme should be with the *consent* of the municipalities. When this Bill was discussed at the introduction stage, the question was raised whether, even against the opinion of a municipality, the Government should impose this scheme upon such municipality; and the general opinion of the House was that in the interests of the health of the people of the town, if the Government considered that the town-planning would be conducive to their condition, Government should have that power. The Select Committee also, in their report, has not effected any alteration which would take away from the Government the power to get schemes prepared and executed even if the municipality is not prepared to agree to it. In this Bill, it will be found that in clause 10, it is clearly stated that, even when a municipality does not agree to the scheme, Government by a declaration, could say that the town-planning scheme is necessary and that the municipality should submit a scheme. Such declaration will have as much effect as a resolution passed by the municipality. The scheme has then to be approved by Government and everything will be got ready even if the municipality puts obstacles in the way of the Government at every step. Now the question is whether, after the whole scheme has been prepared, the municipality must be enabled to make it infructuous. My friend, Mr. P. S. Mahomed, was saying that in case a special board is not created and the municipality is to undertake the

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scheme, the municipality would be able to adjust the working of the scheme according to its means. He said that the municipality will either curtail the expenditure to some extent or carry out the scheme in a number of years so that its purse may not be unduly strained. The question is whether the Government should be disabled from proceeding further, because the municipality has been opposing the town-planning scheme from the very start and has not agreed to the appointment of a special board.

I asked Mr. P. S. Mahomed what course the Government should adopt in case the municipality does not agree to the appointment of a special board; he said that the municipality might carry out the scheme in the way it chooses. And I asked him what would be his position in case the municipality does not carry it out; the answer was that the Government have the power to compel the municipality to do it.

MR. A. THANU PILLAI (*Trivandrum*): Does the member mean to say that according to the Bill, in every case a town-planning scheme is to be put into effect, a trust is necessary?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): If that were so there would not have been any necessity for this provision; because clause 44 says:

> "Government, after consulting the Municipal Council, *decides that the trust is necessary*.....";

It is therefore clear that a trust is not necessary in every case. Probably, even if the municipality has been opposing the town-planning scheme at the start, at a later stage it may think that the scheme may be started and worked out. But, there may arise certain other cases in which the municipality may stick to its previous decision. In such cases it will be possible for the Government effectively to carry out the scheme which has been prepared at very great expense to the Government and to the municipality. My friend, Mr. P. S. Mahomed, was saying that he would prefer the execution of the scheme by the Government to its being entrusted to a special board consisting of *non-officials elected* and nominated by the Government. I am extremely sorry that my friend thinks that persons elected by the general public would not feel the responsibility which the officers of Government would feel. I may say that, in my opinion, persons elected by the people, directly or indirectly, will have a greater sense of responsibility than those appointed by the Government or, for that matter, even by the municipality.

MR. A. THANU PILLAI (*Trivandrum*): Does the member really concede that?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): Why should I '*concede*' it? I have stated that it is my opinion that officers appointed by Government will feel a lesser responsibility than persons elected by the people. Officers appointed by Government are responsible only to the Government. But the representatives of the

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[Mr. A. S. Damodaran Asan.]

people will feel their responsibility to the Municipal Council and to the public in general. I would even prefer to claim that it is *my own* opinion; it is not the opinion of anybody else for me to *concede*.

MR. A. THANU PILLAI (*Trivandrum*): So, does not my friend think that the municipality is a better body than the Government to decide matters vitally affecting the municipality, namely, whether a trust should be created or not?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): It is because the municipality is a better body than the Government to decide matters municipal that municipalities are constituted. The question is whether, in carrying out the town-planning scheme, the representatives of the people would not be a more efficient body than the officers of Government or of municipality. I was referring to what Mr. P. S. Mahomed said. He said, that if the municipality did not carry out the work, the Government would have the option of dissolving the municipality. Why should the Government dissolve a municipality simply because it fails to carry out the town-planning scheme? I think it is not necessary. It does not arise in view of this legislation. I think it would be going out of the way if the Government dissolve the Municipal Council simply because it did not agree with the Government on a particular point.

MR. P. S. MAHOMED (*Nominated*): If the Government is persistent?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): And if the municipality is recalcitrant, Government will, of course, carry out the scheme. The trust created consists of members, two-thirds of whom are elected non-officials; and the municipality also is a non-official body. When a particular non-official body is not prepared to co-operate in the carrying out of the scheme, why not appoint another *non-official* body, with an elected non-official majority, to carry out the same scheme? So, my view of this matter is that the amendment proposed by Mr. Thanu Pillai will only enable the municipality, the attempts of which have been failing till the last to defeat the object of Government in carrying out the town-planning scheme.

MR. K. P. ABRAHAM (*Muvattupuzha* cum *Todupuzha*): Sir, I find one difficulty in supporting the amendment as proposed by Mr. Thanu Pillai. By the amendment, the object of the mover is not achieved in any way. The objection to the original clause, as pointed out by the mover, is that an independent body is created which is not responsible for finding money but which has the liberty of spending money belonging to the municipality. It is to prevent such an anomalous state of things that the present form of amendment is proposed to be moved. According to section 44 (1), a separate body could be created only after consultation with the municipality and the constitution of that body is defined in clause 45 (1). The amendment concedes that an independent body may be created, but it insists on having the actual *consent* of

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the municipality obtained beforehand rather than simply knowing the opinion of the municipality on sheer *consultation*. Anyhow, that body is an entirely independent body, independent of the Government as also of the municipality. My submission is that, when an independent body is created either *with the sanction* of the municipality or *without the sanction* of the Municipality, it should have full power of spending money in the way it thinks proper; the amendment does not contemplate to have any check by the municipality on the expenditure incurred by the independent body known as the trust. Therefore, the object in preventing the apprehended evil will not be achieved merely by the amendment now proposed by Mr. Thanu Pillai. Whether the municipality agrees at the first stage, to the creation of the independent body, or whether it does not agree, the powers of the independent body created are not altered in any way. Therefore, I do not see how, by the amendment the object of the mover would be achieved. On this short ground I oppose the amendment.

MR. M. GOVINDAN (*Nominated*): Sir, I oppose the amendment. There has been so much spoken about the amendment that there is very little remaining for me. My chief point is that the mover does not gain his point by this amendment, as my friend has said just now. The only difference that will be effected by the amendment is that, while under the clause, the municipality will have only to be *consulted*, its *consent* will be necessary, for the creation of the town-planning trust, if the amendment is carried. Now, the chief responsibility to see that the sanitary condition, amenities and convenience of the present and future inhabitants of the State including the inhabitants of the municipal areas, rests with the Government. The municipal bodies are created to accomplish that object. The Municipal Regulation, V of 10/5, contains several provisions for enforcing the decrees of Government through orders of Government. There is the penalty of supercession.

MR. A. THANU PILLAI (*Trivandrum*): Is the member aware that there is a demand for modifying the existing law on the matter?

MR. M. GOVINDAN (*Nominated*): Yes, I am aware of it. I may say positively that it is impossible to create a state within a state; and the primary responsibility of seeing to the convenience of the people should rest with the Government always. The Government has to *consult* the municipality. That is what the clause says. That is quite all right. How can it be said that we should amend the clause in such a way as to make the municipal bodies as co-ordinate bodies with the Government?

MR. S. KRISHNA PILLAI (*Karunagapalli*): Does not the member think that the object of clause 10 can be achieved by asking the Municipal Council to make its choice first? Instead of saying "Government, after consultation with the municipality, shall constitute the board", it may be stated that, *if a Municipal Council does not do it*, the Government may do it as stated in clause 10, reserving with the Government the power to do it ultimately, only if the Municipal Council

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[Mr. S. Krishna Pillai.]

does not do it. Does not the member think that the right of choice must, *in the first instance*, vest with the municipality and that the Government should interfere only if the municipality does not do it?

MR. M. GOVINDAN (*Nominated*): I have no objection to that.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Does not the present amendment virtually bring that into effect?

MR. M. GOVINDAN (*Nominated*): I do not think so. If the municipality does not consent, and if the Government have to adopt coercive measures, it will mean supersession. As regards the mere terminology, I believe Mr. E. V. Krishna Pillai was not very serious when he objected to the amendment on that ground. I do not think there is any serious flaw in the wording of the amendment. That I concede. But in substance, it will only *nominally* add to the powers of the muncipality without *substantially* making any addition to their powers, because, other provisions are already in the Statute which make the Muncipalities subordinate to the Government and which make them liable to be led by Government in matters like this. Under such circumstances, to make a mere isolated provision and merely to add the word "*consent*", instead of "*consult*", simply to raise *verbally* the position of the municipality, is not quite useful.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Suppose a municipality is willing to make its own choice, and a proper choice. Under such circumstances, does not the member think that the voice of the municipality must predominate over that of Government?

MR. M. GOVINDAN (*Nominated*): I am agreeable to that. But in clause 44, there is no such question of the municipality first choosing to constitute the trust. The question now under consideration is, what is to be done if the municipality is *not* willing to have the trust.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Suppose a municipality *is* willing to have a trust. I am asking the member whether, the municipality may not be given an opportunity to decide the question first. The Government need do it only if the municipality *refuses* to do it. Will not my friend give the municipality an opportunity to constitute the trust itself, if it is prepared to do it, instead of the Government doing it and merely *consulting* the municipality?

MR. M. GOVINDAN (*Nominated*): Mere consultation is quite enough. That is *my* position.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Nothing more is necessary? Is that the position of the member?

MR. M. GOVINDAN (*Nominated*): Nothing more is necessary; nor will the alteration of *this* clause alone give the municipalities anything more, in the face of the provisions we have already enacted. That is my position.

MR. S. KRISHNA PILLAI (*Karunagapalli*): So, according to the member, Government must always be the ultimate authority to decide whether the town-planning scheme in a particular place must have a trust or not?

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MR. M. GOVINDAN (*Nominated*): It is safer to leave it to Government; because it is the Government that is mainly concerned with town planning throughout the State. They may have a costly expert, who may go round from town to town and have regular, uniform schemes. Suppose one municipality—I do not want to cast any reflection on any municipality; I am myself member of a municipality.....

MR. A. THANU PILLAI (*Trivandrum*): May I know whether my friend is a nominated or an elected member?

MR. M. GOVINDAN (*Nominated*): That question is irrelevant.

MR. A. THANU PILLAI (*Trivandrum*): It *is* relevant.

MR. M. GOVINDAN (*Nominated*): I can assure this House that there would no objection forthcoming from any municipality. It is quite possible, as Mr. Asan said, to imagine that there may be some frivolous objection. It may be that Government and a particular municipality have some little difference of opinion on certain points, and some feeling of strain. It is likely in such cases that the Municipality stands in the way of the town-planning scheme being worked by a trust which, according to the Government would be absolutely necessary in the interests of the town-planning scheme. I may, in this connection, draw the attention of the House to one important point. Under clause 10, Government have the dominent voice in saying that the scheme must be adopted by the Municipality even if it does not want it. Government's decision in the matter is to be taken as the decision of the municipality itself. The only question in this clause is about the carrying out of the scheme. If we stop after the formulation of the scheme, it would be absolutely academical, and there would be no practical utility at all. We have to carry out the scheme; and the best method of doing it, according to the idea of Government, who have got responsible agents for giving competent advice (much more competent persons than our municipalities), is that it should be carried out by means of a trust. It is mere sentiment to say that the municipality should *consent*. Government may *consult* the municipality and consider their view point also. Government, it will be admitted, have no axe to grind in this matter.

MR. A. THANU PILLAI (*Trivandrum*): Is it the suggestion that the members of the municipality have their own axes to grind?

MR. M. GOVINDAN (*Nominated*): No; I am simply saying that the Government have no axe to grind. Anyway, we are not now concerned with axes of individuals; they may or may not have axes to grind. I, therefore, strongly oppose the amendment of Mr. Thanu Pillai.

MR. S. CHATTANATHA KARAYALAR (*Pattanapuram* cum *Shencotta*): Sir, I rise to oppose the amendment brought forward by Mr. Thanu Pillai. I do it only on a short ground. The matters that are to be dealt with in a town-planning scheme are mentioned in clause 3 of this Bill. I find, on a comparison of this clause with the corresponding Sections in the Municipal Regulation—I believe, Sections 58 and 59—,

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[Mr. S. Chattanatha Karayalar.]

which lay down the functions obligatory and discretionary of the Municipal Council that there are certain matters which have not been dealt with in the Sections of the Municipal Regulation. For instance, I may mention that matters such as providing transport facilities, preservation of objects and buildings of archæological interest have not been provided for in the Municipal Regulation though such matters have been specifically provided for in this Bill. It would therefore be necessary, in the execution of town-planning schemes (which may most probably include these matters which I have just now mentioned), to include persons who are experts in such matters. That is why, I believe, under clause, 44 which we are now considering, the trust, is to include persons representing transport corporations and other bodies. These trusts may have to deal with matters beyond the scope of the functions of municipalities according to the Municipal Regulation. It is therefore necessary for the Government to take powers to provide for the creation of trusts of the nature defined in this clause. I may also bring to the notice of this House that it was found necessary, in the working of the Madras town-planning scheme, to create similar trusts for working the scheme known as the Mambalam Extension Scheme. It was found absolutely necessary to create such trusts. That scheme, I believe, is being worked out by special trusts with representatives of special interests in such trusts. I think that the Government should have powers to create trusts of the nature defined in this clause. I therefore do not find my way to support the amendment brought forward by Mr. Thanu Pillai.

MR. K. GOPALAKRISHNA PILLAI (*Parur*): Sir, the question is whether it would be enough if the municipality is merely *consulted* before a town-planning trust is constituted or whether it should be provided that the municipality's *consent* must be obtained before a trust is created. There is absolutely no trouble in cases where there is no difference of opinion between the municipality and the Government. Difficulty arises only in cases where there *is* difference of opinion between the Government and the municipality. My own opinion is that the creation of these trusts would be more a source of advantage to the people than otherwise. And, the provision in the Bill itself is that the majority of the trust should consist of elected representatives of representative bodies including the municipality itself. There is a specific provision that at least two members of the trust must be elected representatives of the municipality. These two members could be expected to represent the view point of the municipality in regard to town-planning. Besides the municipality, there would also be representatives elected by transport companies, chambers of commerce, co-operative societies and similar other bodies. Therefore, considering the nature of the constitution of the trust, I should think that it will be a very responsible body, more responsible than the municipality itself. But in this matter of town-planning, what is wanted mainly is co-operation between the people and the Government. If one views

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the other with suspicion, practically nothing could be achieved in the interest of town-planning. In a matter like this, I think it would not be fair on our part to view the Government with suspicion as we generally do in regard to other matters. Again, the members of the Municipal Council are likely to be guided by the views held by the rate-payers who are usually averse to any kind of change. It is quite likely that the masses do not favour the town-planning scheme. They would consider town-planning a novel scheme and would raise all manner of opposition against it. In such a matter, therefore, in the interests of the State as a whole, for which Government are responsible, it would, I think, be advisable for us to leave it to Government to choose the best machinery to put into effect the beneficial scheme of town-planning. It is well known that the interests of the members of Municipal Councils are almost always parochial. The consideration and execution of town-planning schemes must be left to persons who have a broader outlook, because it is not only the interests of the area within municipal limits that are involved in town-planning. The State as a whole has to be considered and the rural areas adjoining municipal towns have also to be taken into account. It is a matter in which, as has been laid down by the Select Committee itself, a certain compulsion from Government is absolutely necessary. It is to improve the general health of the people as a whole that town-planning schemes are sought to be introduced. In the initial stages a good deal of opposition from the masses is very likely for the simple reason that they are conservative and averse to any change. It is very unlikely that they realise that the change is intended to *improve* their condition. They always look upon new schemes with distrust, because they are unable to visualise all the wholesome changes that would be effected by such beneficial schemes. This fact has been recognised by this Council, and that was why the majority of the members here have agreed to vest Government with a certain amount of power to compel the people in this matter; I daresay, we, on this side of the House, will not do it at all under ordinary circumstances. That being so, I should think that the Government should have power also to *carry out* the town-planning scheme in the best manner possible. Under the clause now in question, Government are not going to take the whole responsibility upon themselves. They are willing to take the people into partnership. The trust is to be constituted only *after consulting* the municipality. I therefore think *that no amendment* is necessary.

MR. **KAYALAM PARAMESVARAN PILLAI** (*Additional Head Sirkar Vakil*): Sir, I rise to oppose the amendment. It has already been opposed from many view-points, and I shall not detain the House by any reitration. I only wish to draw the attention of the House to one point. Ordinarily, it is the Municipal Council that has to carry out the town-planning scheme. But, it may sometimes happen that it is desirable to have the town-planning scheme put into effect by the agency of a special board, or trust as it is called, constituted for the purpose. That it may so happen is conceded by Mr. Thanu Pillai. But what he wants is that such trusts should be constituted only with the *consent* of the

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[Mr. Kayalam Paramesvaran Pillai.]

municipality. He is by implication agreeable to the special board being constituted if the interests of town-planning require it, or, to put it shortly, if public interests require it. Mr. Thanu Pillai, however, wants that the special board should not be constituted unless the Municipal Council agrees to it, whereas the clause in the Bill only provides that the Government should *consult* the municipality and then constitute the board. The real situation, then, is something like this. On the one side there is the Municipal Council whose duty is to formulate and carry out the town-planning scheme if it is considered necessary. On the other side, we have public interests necessitating the constitution of the board, and there is a conflict between these two. When there is such a conflict, the question is whether the decision should not be left to a third party and whether it would be desirable to leave it to one of these conflicting *parties*. In such matters, an impartial judge is necessary to decide. I do not think anybody else could be thought of except the Government.

MR. A. THANU PILLAI (*Trivandrum*): May I know how the conflict comes in between the municipality and public interests?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No difficulty arises if the municipality *agrees* to the proposal. Trouble arises only when the municipality *does not agree* to it and it is considered necessary in public interests. It is in such cases that a third party is necessary to decide the question.

Sir, Mr. Thanu Pillai adverted to the fact that since, in Madras, the question of local self-government is in the hands of a Minister elected by the people, there is no objection to the corresponding provision in the Madras Town-Planning Act. But the real point is that even there it is a *third* party, and not the municipality, that decides.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Will the member be pleased to state who would be liable for the acts of the trust. Is it the Government or the municipality or the public?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Certainly, the municipality. I will come to it presently.

After all, Sir, what is this trust? It is not a body imported from anywhere outside. It is to be constituted by an elected majority; and the Municipal Council itself among other representative institutions is to be represented in it. It is not unlikely that the majority of the trust is constituted of representatives of the municipality.

MR. S. KRISHNA PILLAI (*Karunagapalli*): May I know whether there is any *provision* for that in the Bill?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I only say that it is likely.

MR. S. KRISHNA PILLAI (*Karunagapalli*): It is also *not* possible. It *may* or *may not* take place.

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Anyway, there is to be an elected majority. And the number of nominated members cannot exceed one-third of the total number of members constituting in the trust. I still maintain that there is every possibility of the Municipal Council being largely represented in the trust. That being so, I do not see any reason why on behalf of the Municipal Council anybody should fight shy of this provision. After all, what is this trust? It will just be something like a sub-committee of the municipality for the purpose of town-planning. We have been told by Mr. P. S. Mahomed that it was quite usual for his municipality to constitute sub-committees for several purposes. Under such circumstances, there seems to be no reason whatsoever to distrust these special boards merely because they are to be appointed by the Government. It must be realised that the clause provides that the Government shall *consult* the Municipal Council before constituting the trust.

Mr. S. Krishna Pillai was asking me as to whether the Municipal Council would not have to take up all the liabilities of the trust. Of course, the Municipal Council has to. But, as I have already pointed out, this trust is really nothing but a sub-committee of a Municipal Council, and it is going to work for the good of the municipality. As such, why should the municipality raise any objection to take up the liability.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Does the municipality form the majority of the board?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): They need not *necessarily* form the majority. But it is certain that the number of nominated members will not exceed one-third.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Why should the Municipal Council be made to take up the liability of extraneous bodies?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): As I have already pointed out, this trust is to have a majority of elected members; and the Municipal Council itself, as also other local representative bodies like transport companies, co-operative societies and chambers of commerce, is to be represented in it. And it is going to work for the good of the municipality.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Will the member undertake to frame the rules under the Regulation in such a way as to see that the Municipal Council will have the right to control the functions of the board?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I cannot give any such undertaking. I may say, however that this aspect of the question will be borne in mind when the rules are framed.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Does not the member think that such a safeguard is necessary?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, not at all, because the trust is to be constituted of an elected majority of representative institutions like chambers of commerce, transport companies, etc.

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MR. S. KRISHNA PILLAI (*Karunagapalli*): May I point out to the member that, under the Municipal Regulation, the only body which has a right to control the municipal funds is the Municipal Council, *and then* the Government.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Therefore, will not the absence of the safeguard, that I now suggest, be a violation of that principle laid down in the Municipal Regulation?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Does not the member think that the present provision is inconsistent with the principle laid down in the Municipal Regulation?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I do not think there is any inconsistency. It is only a question of policy, *viz.*, whether, when the general interests of a particular locality require the constitution of a special board, the municipality, for whom the board is to work and which is to be benefited by the work of the board, should not undertake the liability of the board. Where is the inconsistency in that? It is only a question of policy which the House may accept or reject.

MR. S. KRISHNA PILLAI (*Karunagapalli*): In regard to clause 45, sub-clause (2), does the member admit that *all* the persons contemplated there and living within the municipality are interested in the municipality?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): They are interested in the town-planning scheme.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Only persons living within the municipality?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Not necessarily.

MR. S. KRISHNA PILLAI (*Karunagapalli*): What does the clause mean as it stands?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The clause may not in so many words say that persons living outside are also interested in it.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Does the member also suggest that the provision would apply even to the adjoining taluk?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It may, provided the town-planning scheme extends to the neighbouring taluk. Ordinarily, nobody can imagine that the Quilon town-planning scheme will extend up to Parur.

The Council adjourned for lunch at 2-15 p. m. and met again at 3 p. m.

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MR. A. THANU PILLAI (*Trivandrum*): Sir, I am glad that a good deal of discussion has taken place on my amendment; but I am sorry to find that some members, on this side of the House, *elected members*, have opposed it. I am really very sorry to see that that is the view taken by some of the elected members of this House.

One point I may dispose of straight away, namely, the impression, sought to be created by some members, that the interests of the people, inhabiting these towns or municipalities would be better served by Government than by the representatives of the rate-payers of the municipalities. That is a view which goes counter to the very existence of all self-governing institutions. Sir, I know the people of this State fairly well, and I was really surprised to find some of their representatives here stating that their compeers in the field of public work, in the municipalities were unfit to serve the interests of the people of the localities. The expression of *that* opinion was little expected, Sir, so far as I am concerned. But, even though it has been expressed here, I must say that that view is totally wrong. On the contrary....

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): May I request the member to point out any member who gave expression to such a view, namely, that the members of the municipal councils were *unfit* to serve the interests of the people of the locality?

MR. A. THANU PILLAI (*Trivandrum*): It was suggested by more than one member, in the course of the debate, that the Government were better fitted for that purpose than the Municipal Councils. I think that was the idea of Mr. E. V. Krishna Pillai, for instance, when he put a question to another member as to whether the Alleppey Municipality, as it is at present constituted, could be entrusted with the responsibility of carrying out town-planning scheme there.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): May I know the answer to that question?

MR. A. THANU PILLAI (*Trivandrum*): Anyway, there is that question; that is quite enough to support my present statement. I submit, such an attitude is quite unjustifiable and incorrect. I do not say that, in every case, the view taken by the representatives of the people, whether in this Council or in the Municipal Councils, will always be correct. To err is human; and the representatives of the people may also err. But, to go beyond that, to say that the representatives of the rate-payers are *not* fit to judge what is best for the interests of the people of the locality is, I submit, quite meaningless. Simply because there may arise matters in regard to which experts may have to be consulted, it does not follow that, even in such matters, the municipality is not competent to judge as to what would be best for the interests of the people. Wherever necessary, the municipality will, of course, consult experts and get their opinion.

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MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): But, is the carrying out of a town-planning scheme one of the functions of a municipality under the Municipal Regulation ?

MR. A. THANU PILLAI (*Trivandrum*): Sir, I totally fail to see the relevancy of the question. Whether the carrying out of town-planning schemes is one of the functions of municipalities under the Municipal Regulation or not, is not the question now before us. Town-planning, as such, may not be one of the functions of the municipality under the Municipal Regulation. But, the improvement of the sanitary conditions in the town, the health of the inhabitants of the place and such other matters *are* within the functions of the municipality under the Municipal Regulation.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : Then, why did not the member suggest any amendment to clause 10 under which the Government can compel any municipality to frame a town-planning scheme ?

MR. A. THANU PILLAI (*Trivandrum*) : I shall explain my position, Sir. Under this Bill, ordinarily, the municipality is to frame the town-planning scheme. In certain cases, the Government also may ask the municipality to frame one. And, in extreme cases, the Government may even compel the municipality to do it. The Bill also provides the means of putting the town-planning scheme into effect, whether such scheme has been formulated by the municipality of its own accord or as a result of compulsion by Government. My view is that, whether the scheme has been formulated by the municipality of its own accord or as a result of compulsion by the Government, the actual working of the scheme must be done by the municipality itself and not by any other body. Now, but for clause 44 which I seek to amend, all the previous clauses whichhave already been passed, are quite consistent with my position. Whatever has to be done in respect of the actual work of town-planning must be done by the municipality although the scheme might have important part of a town-planning scheme is the actual working of it and not the preliminaries, which alone, under the foregoing clauses, the Government can compel the municipality to do. If the Government thinks it fit, let them compel the municipality to takes teps to formulate a scheme ; but, when the actual working of it has to be attended to let that be done by the municipality. It is the municipality that has to spend money, that has to raise loans, if necessary, that has to undertake the repayment of the loans raised. It may be that there is provision in the Municipal Regulation for the municipality being superseded in extreme cases; but, so far as I am aware, no such occasion has arisen till now. The matter is not so serious when it is a question of the scheme being formulated or other preliminaries of town-planning being thought of. These trusts are the bodies that are to do the actual work. The real work under the enactment arises only under this clause 44. That is the important point which the House has to consider.

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Some of my friends seem to be under the impression that the town-planning scheme could be put into effect only if these trusts are created, that the constitution of these trusts is a necessary condition precedent to the carrying out of *all* town-planning schemes.

MR. M. GOVINDAN (*Nominated*): Who said so?

MR. A. THANU PILLAI (*Trivandrum*): That was what I gathered in the course of the debate.

I may point out that that is not correct. The trust need be created only in cases where the Government consider that the interests of town-planning would be served best by the creation of a trust. If, as a matter of fact, it had been provided in the Bill that, in all cases, the creation of a trust is absolutely necessary as a condition precedent for the carrying out of town-planning schemes, then, I can understand my friend's objection that, in the light of the provisions that have already been passed, this amendment is inconsistent. But, that is not the case The trust need be created only in cases in which the Government consider that it is necessary in the interests of town-planning. I do not suggest, Sir, that the Government should have absolutely nothing to do with town-planning in this State. There *is* power vested in them, under the foregoing clauses of this Bill, to compel a municipality to formulate a town-planning scheme if the municipality does not do it and if the Government consider it necessary. There is also the provision, in the Municipal Regulation, under which, ultimately, they can supersede the municipality. But, the point now raised by the amendment is totally different. The question now is whether, when the municipality is in existence, the Government should be given the power to create these trusts, *in spite of* the municipality, *independent of* the municipality and *against the wishes of* the municipality. That is the only question that we have to consider now. Government may have ever so many other powers; but that is no reason why they should have *this* power in respect of the creation of these trusts which, under the provisions of this Bill, practically efface the municipality out of existence so far as town-planning is concerned. Under clause 44, Government may create the trust against the wishes of the municipality, they may appoint its chairman; they may fix his salary; they may order the municipality to divert its funds to the trust; and the municipality is bound to obey. The money handed over to the trust may be spent by the trust as it likes without any reference to the municipality. The municipality has absolutely no control over the doings, the actions of the trust. On the other hand, if it is the municipality that is to do the work, at any stage of the work they may stop and wait for the improvement of their financial condition, or they may decide that the work is to be spread over a long period in order that they may not feel the strain due to the heavy outlay. They alone know when it would be better to stop the work, how the work would affect the people, what alterations should be made in the plan of work in order to suit local conditions.

MR. E. V. KRISHNA PILLAI (*Kottarakara cum Kunnattur*): I believe the trusts also can do all these.

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MR. A. THANU PILLAI (*Trivandrum*): What I want my friends to bear in mind is that the trust is not the municipality, that it is a distinct body in itself. It is the municipality that is to suffer the consequences of the work. The trust has really no interest except to spend the money of the municipality. It is the municipality that is composed of the elected representatives of the people of the place.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): What about two-thirds of the trust?

MR. A. THANU PILLAI (*Trivandrum*): That will consist of representatives of chambers of commerce, transport companies, co-operative societies, and also—I admit—the Municipal Council.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): Have the Government anything to do with the appointment of the two-thirds in the trust?

MR. A. THANU PILLAI (*Trivandrum*): Certainly, they *do have* much to do with it. It is the Government that decide as to which are the bodies, the institutions, that are to be represented in the trust. That is a very important matter. It may eventually turn out that the municipality has very little to do with the trust. It is true that two-thirds of the trust is to be elected by other bodies. But, what have those other bodies to do with the municipality? The number of members representing the municipality in the trust may, after all, be very small. So, we cannot say that the trust will be unobjectionable in all cases. It may be highly objectionable in some cases.

As for the financial rights, the powers of the trust, all the powers vested in the municipality are to be exercised by this trust; and as has already been pointed out, the result of the working of this scheme may be a loss. The trust may incur heavy liabilities, and the whole of them will have to be taken up by the municipality. It may be that a municipality is small; and it may happen that the working of the trust has ended in a liability to the extent of fifty thousand rupees, or a lakh of rupees. This Bill provides that the municipality must pay all that. Is it right, I ask? Clearly, there is no justification for it.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): Is not the town-planning scheme to be put into effect in accordance with the scheme *prepared by the Municipal Council* itself?

MR. A. THANU PILLAI (*Trivandrum*): No, that is again another misconception. I shall read the clause:

> "When Our Government, after consulting the Municipal Council, decide that the interests of town-planning in any particular area will be best served by one trusting it to a special board, they may, by notification in Our Government Gazette, constitute such board....."

Then clause 49 says:—

> "When a trust has been duly constituted, the provisions of Chapters I to VIII of this Regulation shall, within the area entrusted to it for town-planning purposes, apply in full as though the words "trust" and "chairman of the trust" were substituted for "Municipal Council" and "chairman of the Council or chairman".

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MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : What is the misconception, please ?

MR. A. THANU PILLAI (*Trivandrum*) : The misconception lies in the member's statement that the scheme to be put into effect by the trust will always be the scheme formulated by the municipality itself.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : Am I to take it that the trust is to be created even before the scheme is prepared ?

MR. A. THANU PILLAI (*Trivandrum*) : Why not ?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): Even before the step contemplated in clause 9, or 10, is taken ?

MR. A. THANU PILLAI (*Trivandrum*) : Why not, I ask. What is there to show that the trust can be created only *after* the scheme is prepared ? Clause 9 reads thus :

> "If the resolution is to make a scheme, the Municipal Council shall, within 12 months from the date of the notification under Section 8 or within such further period, not exceeding 12 months, as Our Government may allow, and after consulting, in the prescribed manner, the owners of the lands and the buildings in the area affected prepare and publish a draft scheme."

What is there to show that it is only *after* the scheme has been prepared and sanctioned that the trust could be brought into existence ?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): First of all it has to be decided whether town-planning is to be had in a particular area.

MR. A. THANU PILLAI (*Trivandrum*) : Government may decide that; and then constitute the trust. The trust itself may be called upon to prepare the scheme. It is not so much in the execution of the work as in the preparation of the scheme that a good deal of expert advice and knowledge is required. Where the streets should be laid, how the roads should be made, how the drains should be constructed, all these questions form part of the scheme. These matters will have to be decided which are even more important than the actual working of the scheme. That is how I understand the Bill.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : Shall I draw the attention of the member to clauses 8, 9 and 10, where it is stated :

> "If the resolution is to make a scheme, the Municipal Council shall, within 12 months from the date of the notification under Section 8 or within such further period, not exceeding 12 months, as Our Government may allow, and after consulting, in the prescribed manner, the owners of the lands and the buildings in the area affected prepare and publish a draft scheme."

Is it the member's opinion that the trust is to be created even before all this is done ?

MR. A. THANU PILLAI (*Trivandrum*) : Why not ?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : Under which clause ?

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MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): I wish to draw the attention of the member to clause 49 where it is stated that the trust could be created at any time.

MR. A. THANU PILLAI (*Trivandrum*): That is what I say. Clause 49 reads thus:—

"When a trust has been duly constituted, the provisions of Chapters I to VIII of this Regulation shall, within the area entrusted to it for town-planning purposes, apply in full as though the words 'trust' and 'chairman' of the trust were substituted for "municipal council" and "chairman of the council of chairman' ".

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): So, is it the member's position that first of all Government would consult the municipality just *to appoint the trust.* Even before considering whether town-planning is necessary or not, Government will straight away consult the municipality as to the fact whether a trust should be created?

MR. A. THANU PILLAI (*Trivandrum*): When the Government consider that the interests of town-planning will be best served by the appointment of a trust, they may create the trust.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): Before the question of the interests of town-planning is taken up for consideration, the question of having town-planning must be decided?

MR. A. THANU PILLAI (*Trivandrum*): The Government may decide that.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): Without consulting the municipality?

MR. A. THANU PILLAI (*Trivandrum*): They *may* consult the municipality.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): May I draw the attention of the member to clause 37:

"Subject to such rules as Our Government may make in this behalf, a Municipal Council may, and if so required by Our Government shall, join with one or more than one other local authority in constituting a joint town-planning committee for the making affair joint town-planning scheme or for any purpose connected with town-planning in which they are jointly interested or for which they are jointly responsible".

That is for making a scheme. With that may I draw the attention of the member also to clause 39, (b) which says:

"If Our Government are satisfied, after giving the Municipal Council an opportunity of explanation, and considering any other representations that may be made to them, that a Municipal Council.....

(*b*) has failed to adopt any scheme proposed by owners of any land in a case where the scheme ought to be adopted".

Therefore, Government may compel the municipality, even, against their appeal, to formulate a scheme. According to clause 37 or clause 39, does the element of compulsion from outside remain?

MR. A. THANU PILLAI (*Trivandrum*): That is a different matter. Even though Government may compel the municipality to prepare a scheme and to put it into effect, it is the municipality that must put it into effect. That is the important point.

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MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): It is not at all necessary. Under clause 39 (2) which says:

> "Our Government may order the Council or the responsible authority to do all things necessary for enforcing the observance of the scheme or any provisions thereof effectively, or for executing any works, which, under the scheme of this Regulation, the Council or the responsible authority is required to execute, irrespective of the consent of the municipality, Government can force it upon them."

MR. A. THANU PILLAI (*Trivandrum*): There is no quarrel about the fact that there is that provision in the Bill. Clause 39 says:

> "If Our Government are satisfied after giving the Municipal Council or the responsible authority as the case may be an opportunity of explanation, that a municipal council or a responsible authority, has failed to enforce effectively the observance of a scheme which has been finally sanctioned, or any provisions thereof, or to execute any works which under the scheme or this Regulation the Council or the responsible authority is required to execute....."

Government can compel them to do so. The Municipal Council is bound to do it, but, still, it is the municipality that does it. Government have got the power even to supersede the municipality if it disobeys. I fully concede that. But so long as the municipality exists, it is the municipality that should do the work and spend its money.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): Is that consistant with clause 44, with the spirit of that clause?

MR. A. THANU PILLAI (*Trivandrum*): There, the municipality *co-operates* with the Government, *either willingly or unwillingly*, throughout the work. Here, the municipality is only the *on-looker*. Some other body comes in and forces the work upon the municipality.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): May I know from the member whether the effect of this clause could be nullified if it is provided that the trust could be constituted only with the consent of the municipality?

MR. A. THANU PILLAI (*Trivandrum*): Personally, I would even like to see this clause nullified; but I do not propose to go sofar. Now though the Government have the power to supersede the municipality, as I said, there has been no instance in which that has been done. Things will not go to that extent, because the municipality may yield. It is not exactly the devil that works the municipality or the Government. They are both composed of men. They will come to some understanding in all important matters. Then, Sir, suppose the Government says, "Here is necessity for a town-planning trust", and the municipality agrees to the constitution of a trust on the condition that the chairman shall be of a particular qualification, that his pay shall not exceed a particular amount, that the total outlay on the scheme shall not exceed, say, twenty thousand rupees and that the work must be stopped when the expenditure is found to exceed thirty thousand rupees. If the municipality is given the right to be satisfied in regard to such questions, there is, perhaps no objection. But, suppose the Government bring into existence a trust and order the municipality to transfer its funds; the trust goes on with the work which

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[Mr. A. Thanu Pillai]

eventually ends in a huge liability. It is the municipality that will have to bear it. That is the position under the clause as it is. Sir, I think I have made my position clear, so far as the object of this amendment is concerned. I hope Mr. Asan is now satisfied that a trust can be created even at the outset.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): No not in the least.

MR. M. GOVINDAN (*Nominated*): Is it suggested that the town-planning *scheme* itself may come *after* the creation of the trust?

MR. A. THANU PILLAI (*Trivandrum*): It *may* happen like that; but not necessarily. Suppose Government decide that the interests of town-planning in a particular locality will be best served by entrusting it to a trust. The trust constituted for the purpose may take up the work and do whatever they like in spite of the municipality; because, under the Bill, the trust will take the place of the Municipal Council, and the chairman of the trust will take the place of the chairman of the municipality, after the creation of the trust.

MR. M. GOVINDAN (*Nominated*): Just one question, about the wording of the clause 44

"When Our Government, after consulting the Municipal Council, decide that *the interests of town-planning* in any particular area"

It is stated there "*the interests of town-planning*". What is the meaning of the expression '*town-planning*'?

Does it not mean town improvement?

MR. A. THANU PILLAI (*Trivandrum*): Town-planning, I think, is defined in the Bill.

MR. M. GOVINDAN (*Nominated*): The definition includes town improvement also.

MR. A. THANU PILLAI (*Trivandrum*): Yes.

MR. M. GOVINDAN (*Nominated*): If it means town improvement, it certainly follows the scheme for the purpose is already there.

MR. A. THANU PILLAI (*Trivandrum*): Not necessarily. "*The interests of town-planning*" may mean the preparation of the town-planning scheme along with everything that follows it. If Government advance some money to somebody and say that they do so *in the interests of agriculture* in a locality, it does not necessarily mean that there is agriculture already being carried on there. It may also be that, since there no agricultural operation being conducted there, Government advance the money for the propose of conducting agricultural operations.

MR. M. GOVINDAN (*Nominated*): Is not the carrying out of the town-planning scheme a matter requiring technical knowledge?

MR. A. THANU PILLAI (*Trivandrum*): In some cases it *is*.

MR. M. GOVINDAN (*Nominated*): If so, is it the municipality or the Government that is in a better position, to command that technical knowledge.

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MR. A. THANU PILLAI (*Trivandrum*): It is not always that the Government are able to command better technical knowledge than private individuals. That will depend upon several things. It is quite likely that Government have an officer who is not really an expert and the municipality may go in for an officer who is really an expert. It cannot always be maintained that, because Government is a bigger body their experts are always the best available. In fact, it is a matter of every day knowledge that that is not always the case, at any rate, here Government may have their engineers and supervisors, who may not know much of engineering. At the same time I may go in for the services of an engineer who is really far superior to the Government engineers. The highest Medical officer under Government may not perhaps, stand comparison with my doctor in point of efficiency and skill.

It was stated in the course of the discussion that the municipality will not be in a position to know what is best in the interests of town-planning. There again I must, in all earnestness, submit that it is really the municipality that has the best knowledge of the needs of the locality. They know local conditions better than any body else. They know their financial position best.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): May I know from the member whether he is aware of the large surpluses that lie idle in the hands of several municipalities in Travancore.

MR. A. THANU PILLAI (*Trivandrum*): What has that to do with the present question?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): It *has much* to do with it.

PRESIDENT: You are not bound to answer that question, Mr. Thanu Pillai.

MR. A. THANU PILLAI (*Trivandrum*): It appears to me, Sir, that when it is a collective body of twenty-five people, the chances of error are comparatively small. All human institutions are liable to err. That is the condition of existence; there is no going beyond that or behind it. So, the best body in such matters is the Municipal Council. No doubt, Government are invested with large powers. If it is a case where the Government should really have power over the municipality, we would be glad to give it. That is not the case in the present instance. Government must therefore yield. What is the fun of bringing into existence these Councils if you are going to keep all the powers with you? There is also one other aspect from the point of view of self-Government. If we entrust these functions also to the municipality, there is the chance of even better class of members than we now have taking their seats in the Municipal Councils. Probably, there would be better Presidents also I mean no disparagement to my friends, here and outside who are Presidents of Municipal Councils.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): May I know the reason why better members would be attracted by th Municipal Councils if the amendment is carried?

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MR. A. THANU PILLAI (*Trivandrum*): The more the power the greater the improvement in the constitution. So, better members *will* come in. In the light of this fact also I request the members to support me.

Some other subsidiary and minor matters were also raised in the course of the debate. Mr. Govindan raised the question of state within a State. These small states are bound to improve and grow.

Mr. Kayalam Paramesvaran Pillai also raised some objections. I must answer him since he is in charge of the Bill. He raised a point which I was not then able to understand when he raised it, and which I am not able to understand even now after much thought. Between the Municipal Council on the one side and the public interests on the other he said the Government must decide. The rate-payers are the inhabit ants of the municipality and the muncipal council represents them Where is the conflict between the two? I fail to see that.

MR. S. CHATTANATHA KARAYALAR (*Pattanapuram* cum *Shencotta*): Is the member aware that the town-planing scheme may extend to places outside municipal limits?

MR. A. THANU PILLAI (*Trivandrum*): In rare cases, it may; but the possibility of for such a contingency is so small that we may ignore it for the present.

MR. S. CHATTANATHA KARAYALAR (*Pattanapuram* cum *Shencotta*) How is the member so sure that it would be so small?

MR. A. THANU PILLAI (*Trivandrum*): I think so.

MR. P. S MAHOMED (*Nomindted*): മുൻസിപ്പാലിറ്റിക്കു വെളിയിലുള്ള ആളുകളുടെ ഇടത്തെക്കുടി മുനിസിപ്പാലിറ്റി നോക്കേണ്ടതല്ലെ?

MR. A. THANU PILLAI (*Trivandrum*): The municipality represents public interests and the question of Government coming in to arbitrate as it were, does not arise at all.

MR. M. GOVINDAN (*Nominated*): Is it not possible that persons who are now in a particular municipality may not continue to represent the public interests in that body after the lapse of some time?

MR. A. THANU PILLAI (*Trivandrum*): That is a diseased mentality which we need not take into consideration. When a man represents the people, in a public body he must continue to do his best for the people as long as he is there.

MR. M. GOVINDAN (*Nominated*): Is the member aware that most of our representative institutions are constituted in such a way that a duration is prescribed beyond which the representative capacity is not attached to the persons who are elected as representatives?

MR. A. THANU PILLAI (*Trivandrum*): Yes.

MR. M. GOVINDAN (*Nominated*): Is it a diseased mentality that fixes the duration of membership?

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MR. A. THANU PILLAI (*Trivandrum*): It is not there the diseased mentality comes in. The fixing of a period for holding the office only indicates the possibility of several changes in the life of a man, his character, and his general capacity to represent the people. To provide for all these a period has been fixed. That does not mean that the representative would be quite all right during the first year after election, and then neglect his duty. That is not my conception of duty. Further, he is eligible for re-election. And even in this Council, there *are* gentlemen who have been re-elected.

Then, it was suggested that the representatives of the Municipal Councils would form the majority in the trust. It *may* or *may not* be the cases.

I hope the House will consider all these various aspects of the question and support my amendment.

The amendment was then put to the vote of the House and lost.

MR. A. THANU PILLAI (*Trivandrum*): I demand a poll.

A poll was taken with the following result:—

AYES 10.

1. Mr. Joseph Kunju.	6. Mr. M. Mahomed Mustapha.
2. Mr. N. K. Krishna Pillai.	7. Mr. P. S. Mahomed.
3. Mr. S. Krishna Pillai.	8. Mr. Rama Varma Raja.
4. Mr. K. Madhavan Pillai.	9. Mr. N. A. Sundaram Pillai.
5. Mr. K. P. Madhavan Pillai.	10. Mr. A. Thanu Pillai.

NOES 35.

1. Mr. L. A. Bishop.	20. Mr. K. Gopalakrishna Pillai.
2. Mr. R. Dhanukoti Pillai	21. Mr. M. Govindan.
3. Mr. K. George.	22. Mr. N. John Joseph.
4. Mr. A. Kumara Pillai.	23 Mr. K. C. Karunakaran.
5. Rao Sahib Dr. N. Kunjan Pillai.	24. Mr. K. I. Kocheeppan Mappillai.
6. Mr. C. O. Madhavan.	25. Mr. K. P. Kochukora Tarakan.
7. Mr. E. G. McAlpine.	26. Mr. K. Krishnan Nayar.
8. Mr. R. Nilakanta Pillai.	27. Mr. E. V. Krishna Pillai.
9. Mr. N. K. Padmanabha Pillai.	28. Mr. K. Kunjukrishna Pillai.
10. Mr. Kayalam Parameswaran Pillai.	29. Mr. L. A. Lampard.
11. Dr. K. Raman Tampi.	30. Mr. M. P. Madhavan Pillai.
12. Mr. S. C. H. Robinson.	31. Mr. K. Narayanaperumal Nadar.
13. Mr. R. Vaidyalingam Pillai.	32. Mr. A. Narayana Pillai.
14. Mr. P. Visvanatha Aiyar.	33. Mr. K. Padmanabha Panikkar
15. Mr. J. S. Westerdale.	34. Mr. C. N. Tuppan Nampu-tiripad.
16. Mr. K. P. Abraham.	35. Rao Bahadur A. Venkata-rama Aiyar.
17. Mr. K. C. Chandi.	
18. Mr. S. Chattanatha Kara-yalar.	
19. Mr. A. S. Damodaran Asan.	

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The amendment was declared *lost*.

The question that clause 44 do stand part of the Bill was then put and carried.

The clause was added to the Bill.

Clauses 45 and 46.

The question that clauses 45 and 46 do stand part of the Bill was then put and carried.

The Clauses were added to the Bill.

Clause 47.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): Sir, my amendment, as I have given notice of it, is that, after the words "*good behaviour*" the words "*for an offence involving moral turpitude*" should be inserted. I would request the permission of the Chair to change the amendment a little in order to make the meaning clear. I would have these words inserted after the words "*Code of Criminal Procedure*" and not after "*good behaviour*". I need not add much in favour of the amendment. It is intended to secure a seat as trustee to persons who might be convicted according to the Criminal Procedure Code for a political offence which may not involve *moral turpitude*. There are the temperance and other movements, and prohibition orders are in plenty. It is likely that the Security Sections are applied to respectable persons and useful citizens. My intention is just to prevent such useful members of society from being stigmatised, in regard to these the trusts which are to work for the good of the people.

RAO BAHADUR A. VENKATARAMA AIYAR (*Nominated, Deputy President*): Is it the intention of the mover that his amendment should cover convictions also?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): Yes. I would amend it like this "……such sentence or order not involving moral turpitude……".

MR. E. V. KRISHNA PILLAI (*Kottarakara cum Kunnattur*): When my friend, in his amendment, speaks of '*order involving moral turpitude*', does he imply that Magistrates, who are to pass the orders, may have moral turpitude? (*Laughter*).

RAO BAHADUR A. VENKATARAMA AIYAR (*Nominated, Deputy President*): The sense intended would be clear if it is stated that the order to find security for good behaviour was not for an offence involving moral turpitude.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It may be amended like this: "……*such sentence or order not being in respect of offences involving moral turpitude*……"

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): Yes; that will be better. What I want is that persons who may be bound over for security proceedings, or persons who may be convicted for offences not involving moral turpitude for instance, political offences……

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MR. M. GOVINDAN (*Nominated*): May I know how the clause reads with the amendment?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*) It will read like this:

"(*c*) has been sentenced by a Criminal Court to imprisonment for a term exceeding 6 months or has been ordered to find security for good behaviour under the Code of Criminal Procedure, *such sentence or order not being in respect of offences involving moral turpitude* and such sentence or order not having subsequently been reversed, remitted or the offender pardoned, or....."

My object is to save useful citizens who might have been convicted for being engaged in activities which the Government of the moment might not approve of. Such persons should not be stigmatised. That is the simple reason for my amendment. I do not think there can be any objection from the Goverement side for *this* amendment.

MR. M. GOVINDAN (*Nominated*): I second the amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I can quite appreciate what Mr. Kunjukrishna Pillai has said. I am at one with him in thinking that in the case of offences not involving moral turpitude there should be no deprivation of civic rights. But, it seems to me, there will be considerable practical difficulty in accepting this amendment; because the question whether a particular conviction involves any moral turpitude is a matter that has to be decided by somebody; and as the amended clause would stand, that decision must be made by Government, because clause 47 begins by saying "Our Government may remove.....".

So it is the Government that has to decide of their judgment whether a particular conviction involves moral turpitude or not. If that is so, the difficulty will be this. Very often the judgment of Government and that of the public might differ, and it is the desire of Government to avoid such occasions for difference of opinion as much as possible. It would be seen from the earlier portion of the clause that whenever a sentence does not exceed six months, a person *is* eligible to become a member of the board. If it exceeds six months, he automatically becomes ineligible. That is how the clause in the Bill stands. There will be no occasion to exercise judgment, over the question whether an offence is one involving moral turpitude or not. That seems to me to be a satisfactory arrangement. In the Electoral Rules, for instance, there is a provision that, if there is a conviction for an offence involving moral turpitude the Government may declare him ineligible. There were similar Rules in the Government of India Rules also. But now, it is the *period of the sentence* that creates the disqualification.

The present Government of India rule on the subject, is this:

A person against whom a conviction.....involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall unless....."

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): Is it a recent amendment?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

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[Mr. Kayalamparamesvaran Pillai.]

So then, the question whether a particular conviction involves moral turpitude or not does not arise at all in the clause as it is in the Bill; and the Government are not asked to decide any question. That seems to be a more satisfactory arrangement than that, in every case the Government should be called upon to decide whether a particular conviction involves moral turpitude or not. So, it would be best for Mr. Kunjukrishna Pillai, from his own standpoint, to withdraw his amendment.

In regard to Town-Planning Acts elsewhere, the provision in Madras is as in the Bill. The question of moral turpitude does not arise at all.

I shall now explain the circumstances under which a person might be brought under security proceedings.

Section 92 of the Code of Criminal Procedure lays down:

"Whenever a District Magistrate or Magistrate of the First Class receives information—

(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing an offence, or

(*b*) that there is within such limits a person who has no ostensible means of subsistence, or, who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding six months as the Magistrate thinks fit to fix."

Section 93 is as follows:—

"Whenever a District Magistrate or Magistrate of the First Class receives information that any person, within the local limits of jurisdiction,

(*a*) is by habit a robber, house-breaker or thief, or

(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or

(*c*) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or

(*d*) habitually commits mischief, extortion, or cheating, or counterfeiting coin, currency notes, or stamps or attempts so to do, or

(*e*) habitually commits, or attempts to commit, or abets the commission of offences involving a breach of the peace,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with sureties for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix."

It will be seen that the occasion on which a person may be asked to furnish security for good behaviour is in cases of offences *really involving moral turpitude.*

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): Does the Law Member suggest that only for these offences, security proceedings *are* taken, *as a matter of practice.*

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Security proceedings may be taken under another Section of the Criminal Procedure Code, *viz*, Section 90. That is a different matter altogether.

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Section 90 reads as follows:

"Whenever a District Magistrate or Magistrate of the First Class receives information that any person is likely to commit a breach of the peace, or to do any wrongful act that may probably occasion a breach of the peace, within the local limits of such Magistrate's jurisdiction, or that there is within such limits a person who is likely to commit a breach of the peace or do any wrongful act as aforesaid in any place beyond such limits, the Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix."

I have not brought under the clause in the Bill any order in regard to the matters dealt with in Section 90 of the Criminal Procedure Code, *viz.*, when security is taken for keeping the peace, as distinct from for good behaviour.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Does the member mean that a person who has been convicted under Section 379 of the Penal Code only for five months, should be eligible for a seat in the trust; and that even after his twelfth conviction? May I take it that, according to my friend, even a habitual thief can be a member of the trust merely because he had the good luck to get a sentence only for five months' imprisonment?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The courts, in such cases, will surley award imprisonment for more than six months.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Where is it stated like that?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is ordinarily presumed that the courts will do so?

MR. S. KRISHNA PILLAI (*Karunagapalli*): If a murderer is sentenced for imprisonment only for five months and twenty-nine days and for a fine of Rs. 2,000, he would be eligible to become a member, though he happens to be a murderer? Does not the member *now* find that the expression "*moral turpitude*" *is* necessary in the provision in the Bill?

PRESIDENT: You have to realise, Mr. Krishna Pillai, that such offender has to get elected by the people.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Six months' imprisonment is the maximum fixed to avoid becoming ineligible. Any murderer, any dacoit who had the good fortune to get only a small period of imprisonment, would be eligible to become a member and to sit in the same bench as the noblest citizen of the State.

PRESIDENT: But, such offender has to get elected by the people.

MR. S. KRISHNA PILLAI (*Karunagapalli*): But no one can dispute his right to stand for the election along with the noblest of citziens.

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[Mr. S. Krishna Pillai.]

The body proposed to be constituted by such persons is intended to administer the funds of a municipality. I am asking whether the interests of the municipality would be safe in the hands of a thief simply because he had the good fortune to be sentenced to undergo only five months' imprisonment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I can very well understand the principle that is desired to be carried out by this amendment. But, even if Mr. Kunjukrishna Pillai's amendment is carried, the effect would be that to disqualify an offender, the imprisonment *must* exceed six months, *and also* the offence must be one involving moral turpitude. So if the sentence is less than six months, a murderer and thief can yet, even under the amendment, become members.

MR. S. KRISHNA PILLAI (*Karunagapalli*): You may put the conjunction "*and*" after "*for a term exceeding six months*". Mr. K. Kunjukrishna Pillai's amendment has not assumed any definite shape yet.

RAO BAHADUR A. VENKATARAMA AIYAR (*Nominated, Deputy President*): If the principle is accepted, Sir, the fact that the amendment has not been worded properly should not be relied upon by the Law Member. The fact that there is no provision in the amendment to disqualify persons convicted (of offences, involving moral turpitude) *for less than six months*, would not justify its rejection.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): As I understand the amendment there must be two conditions before a member of the trust could be removed. One is that the sentence must exceed six months. The other is, it must be in respect of an offence involving moral turpitude. The first condition is already there according to the clause. Mr. Kunjukrishna Pillai wants to add the other also. Mr. S. Krishna Pillai says that, under the Bill, a man may be convicted of murder and sentenced to undergo five months' imprisonment and yet may remain as a member, and that, therefore, the amendment is necessary. My submission is that such a contingency cannot be avoided by the amendment now proposed; because even if the amendment is carried it will not exclude a murderer or dacoit who has the good fortune to get only five months' imprisonment.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): Suppose, without any restriction in regard to the term of imprisonment, I concede that only for offences involving moral turpitude the member can be removed.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I have no serious objection to accept that proposition if the House wants it.

MR. E. V. KRISHNA PILLAI (*Kottarakara cum Kunnattur*): I support the amendment.

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PRESIDENT: Do you want the term of imprisonment specified, Mr. Kunjukrishna Pillai?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): No, Sir, I think I would leave the drafting of the amendment to the expert in the matter, the Law Member. Any further improvement of the wording may be made in the Third Reading of the Bill.

PRESIDENT: Mr. Govindan, do you agree?

MR. M. GOVINDAN (*Nominated*): Yes, Sir.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): May I request the Law Member to read the clause as amended?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*):

"Our Government may remove.....who has been sentenced by a Criminal Court or has been ordered to find security.....such sentence or order not being for an offence involving moral turpitude....."

MR. S. KRISHNA PILLAI (*Karunagapalli*): We need not amend the latter part of the clause.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Who is to decide the question as to whether an offence involves moral turpitude or not?

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): The Government. Sir, the chief objection raised by the Law Member was that it would be adding to the burden of the Government if they are asked to sit in judgment over a question in which the public may take a different view. I think my confidence in Government is not so slender as that of the Law Member. Of course, the Law Member may be justified in entertaining such apprehensions, in view of the recent decisions, arrived at by the Government, in two such cases. I am now glad to see that they are not approved of even by the officers of Government. In such matters, certainly, Government should not fight shy; they should take the risk and try to arrive at conclusions which would be approved of by all right-thinking people.

We see, Sir, nowadays, that, in ever so many political offences, very respectable people are being sentenced to terms which go up even to two or three years. All the same, the public have a very high opinion of their character and nobility.

The Law Member wants such persons to be excluded merely because he wants to save the Government from the predicaments of giving decisions which may not be approved of by the public. Sir, the amendment is a very reasonable one, and the House, certainly, should not have any reason to oppose it.

MR. M. GOVINDAN (*Nominated*): I have just one objection to make to the Law Member's point, that the Government would be sitting in judgment in the matter and that their decision might not command public confidence. Why that anticipation is not properly founded is because it is this side of the House that constitutes the Government the judge in this matter. Now that *we* have confidence in the Government, it should not appear that the other side of the House hesitates to accept

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[Mr. M. Govindan.]

the responsibility. The Government's decision, we are prepared to accept; and when *we* are accepting, hesitation should not come from the other side. With these words, I support the motion.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): Sir, I rise to support the amendment, but on one point I differ fromMr. Govindan. I support the amendment not because we have much confidence that the Government will always judge properly as regards the moral turpitude of an offence committed by a person, but because that is the only practicable proposition in this case. Moreover, it is not possible to go to a court of law and get an adjudication on this matter. It is therefore, that we agree that the Government may be made the judge in the matter. There is another reason also. The Law Member said that the Government do not wish to have an opinion which would be against the opinion of the general public. That attitude will, of course, act as a sufficient deterrent for the Government to give a proper judgment. I therefore, support the amendment moved by Mr. Kunjukrishna Pillai.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I suggest the following amendment in place of the amendment moved by Mr. Kunjukrishna Pillai.

"Substitute the following for clause (c):" ..... has been convicted of any offence by a Criminal Court or has been ordered to find security for good behaviour under the Criminal Procedure Code, such conviction or order implying, in the opinion of our Government, moral turpitude on the part of the person so convicted or ordered, and not having been subsequently reversed or the offender pardoned."

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): I accept the amendment, Sir, because, as Mr. Asan said, Government will always act according to the strict meaning of the words *moral turpitude*. We cannot have any other body in the present circumstances that could interpret these words correctly.

MR. A. THANU PILLAI (*Trivandrum*): Is the Government bound to take a reasonable view?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): In a sense, they are. It will touch their conscience, when the amendment is brought into effect; and, I hope it will have the effect intended.

MR. S. KRISHNA PILLAI (*Karunagaplli*): Does not the member think that, in cases where this decision would not conflict with the interests of Government, they would always decide correctly?

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): Yes. In this case, Government are neither to lose or to gain.

PRESIDENT: I shall again read the amendment as accepted by Government and by the mover of the amendment;

"...has been convicted of any offence by aCriminal Court or has been ordered to find security for good behaviour under the Criminal Procedure Code such conviction or order implying in the opinion of our Government moral turpitude on the part of the person so convicted or ordered, and not having been subsequently reversed or the offender pardoned."

The amendment was put and carried.

The clause as amended was put, carried and added to the Bill.

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Clauses 48 to 54.

Clauses 48 to 54, were put and carried.

The clauses were added to the Bill.

The Preamble was also put and carried.

It was added to the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move that the Bill, as now settled by the Council, be taken up at a subsequent meeting and passed.

MR. R. NILAKANTA PILLAI (*Financial Secretary to Government*): I second it.

The motion, that the Bill be taken up and passed at a subsequent meeting, was put and carried.

THE TRAVANCORE PROVIDENT INSURANCE SOCIETIES BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I rise to introduce a Bill to provide for the regulation of the Provident Insurance Societies in the State. The Bill has been published in the *Gazette*, with a statement of objects and reasons; and I beg to move that the Bill be read in Council.

MR. R. NILAKANTA PILLAI (*Financial Secretary to Government*): I second it.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Will the member please tell me the date on which the Bill was published in the *Gazette*?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Last Tuesday.

I shall now briefly explain the principles involved in this Bill. Recently in Travancore, the activity in the promotion of these provident insurance companies has been very great, and we have during the last two or three years about 150 companies started for carrying on life assurance and provident insurance business. It has been considered expedient that they should be brought under control as elsewhere. In British India there is an Act imposing control on the working of the provident insurance societies, and the Bill that is now placed befroe the Council is only an adaptation of that Act. The main principle involved in this Bill is that the provident insurance societies, those which come under the definition of that term in this Bill, will be subject to certain control by the Government, the chief of which is that they should be registered by the Registrar appointed by Government and should be subjected to enquiry and investigation by the Registrar on his own motion. If they are found to be unworkable, or if they are found to do business fraudulently, their registration may be cancelled, and, once their registration is cancelled, they would not be able to collect premiums. I do not wish to detain the Council over this Bill. If the Council agrees to the principle of the Bill, the details may be left to the Select Committee.

MR. K. GOPALAKRISHNA PILLAI (*Parur*): Is the member aware that there are in existence societies of this kind which have not been registered? May I know how many of such societies, have, so far been registered voluntarily?

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